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Concerning Customs and Related Matters of the

U.S. Customs Service

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and

U.S. Court of International Trade

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This issue contains:

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

NOTICE

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U.S. Customs Service

Treasury Decisions

19 CFR Parts 10, 18, 113, and 178

(T.D. 99–33)

RIN 1515–AB67

WAREHOUSE WITHDRAWALS; AIRCRAFT FUEL SUPPLIES; PIPELINE TRANSPORTATION OF MERCHANDISE IN BOND

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document adopts as a final rule, with some changes, the interim rule amending the Customs Regulations that was published in the Federal Register on February 22, 1996, as T.D. 96–18. The interim rule implemented certain statutory changes to the Customs laws contained in the Customs modernization portion of the North American Free Trade Agreement Implementation Act regarding recordkeeping for merchandise transported by pipeline and duty-free withdrawals from Customs bonded warehouses of aircraft turbine fuel. The interim rule also clarified the procedures applicable to aircraft turbine fuel withdrawn from a bonded warehouse for certain duty-free use and then commingled with other lots of fuel before being so used.

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Jerry C. Laderberg, Office of Regulations and Rulings, 202–927–2320.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Title VI of the North American Free Trade Agreement Implementation Act, Public Law 103–182 (December 8, 1993), popularly known as the Customs Modernization Act (Mod Act), significantly amended certain Customs laws. This document concerns sections 664 and 665 of the Mod Act. Section 664 added a new section 553a to the Tariff Act of 1930 (19 U.S.C. 1553a), to account for bonded merchandise transported by pipeline. Section 665 amended section 557(a) of the Tariff Act of 1930

(19 U.S.C. 1557(a)), to provide for the duty-free withdrawal of turbine fuel from a Customs bonded warehouse under a 30-day accounting period.

Under section 553a, bonded merchandise transported by pipeline may be accounted for on a quantitative basis. For this purpose, the bill of lading or equivalent document of receipt, issued by the pipeline carrier to the shipper and accepted by the consignee, may be used to account for the quantity of merchandise so transported and to maintain the identity of that merchandise. This facilitates the commingling of bonded merchandise with non-bonded merchandise being transported by pipeline. Commingling previously was not permitted under Customs law, which required that the physical identity of the bonded merchandise be maintained. However, since most merchandise transported by pipeline is commingled and is susceptible to quantitative accounting, section 553a is intended both to enable the effective use of modern fuel transportation systems and to reduce the administrative costs and paperwork for the industry and the Government.

Under amended section 1557(a), aircraft turbine fuel may be withdrawn from a Customs bonded warehouse for use as provided under section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) without the payment of duty if an amount equal to the quantity of fuel withdrawn is shown to be used as provided for in section 1309 within 30 days of its withdrawal. Duties must be deposited on turbine fuel that was withdrawn in excess of the quantity shown to have been used under section 1309 during the 30-day period following withdrawal of the fuel. Previously, Customs required daily accounting for such fuel, which resulted in great administrative expense and excessive paperwork for industry. The amended procedure allows for the commingling of different lots of fuel, whether bonded, imported, or domestic, in a modern hydrant system, with accounting for the bonded fuel in a manner which is cost-effective and which substantially reduces paperwork.

Accordingly, by a document published in the Federal Register (61 FR 6772) on February 22, 1996, as T.D. 96–18, Customs issued interim regulations to implement the foregoing statutory enactments.

The interim regulations added a new § 18.31 to its regulations (19 CFR 18.31) to allow bonded merchandise being transported by pipeline to be accounted for on a quantitative basis, and a new § 10.62b to permit accounting on a monthly basis for the duty-free withdrawal of aircraft turbine fuel from a bonded warehouse for use as provided in 19 U.S.C. 1309. In connection with new §§ 10.62b and 18.31, the interim regulations also made conforming changes to existing §§ 10.60(d), 10.62(a), 18.1(a)(1), and 113.62(b) of the Customs Regulations (19 CFR 10.60(d), 10.62(a), 18.1(a)(1), and 113.62(b)).

Discussion of Comments

One commenter responded to the request for comments on the interim regulations contained in T.D. 96–18. This commenter agreed with the substance of the interim regulations, but made a number of sugges-

tions in an effort to clarify the meaning of the regulations or to further simplify their administration. The suggestions made by the commenter, together with the responses by Customs, are set forth below.

Comment:

The reference in § 10.62(a) to Customs Form (CF) 7506 should be changed to Customs Form 7501 because Customs has since adopted the use of CF 7501 in place of CF 7506.

Customs Response:

Customs agrees. Section 10.62(a) is changed accordingly.

Comment:

The last sentence in § 10.62b(b) should be changed to require that the withdrawal of turbine fuel be made using CF 7512 unless the blanket withdrawal procedure is used.

Customs Response:

Customs disagrees. Under § 144.37, Customs Regulations (19 CFR 144.37), either a CF 7512 or a CF 7501 may be used to document the withdrawal.

Comment:

The commenter stated that the use of the phrase, "the fuel withdrawn which is not entered and upon which duties have not been paid", in § 10.62b(c)(1) and its subordinate paragraphs, is superfluous and should be deleted from these provisions. The commenter asserts that, as used in paragraph (c)(1)(ii)(C) of § 10.62b, the phrase appears misplaced because this paragraph deals with fuel being loaded onto an aircraft, as opposed to being withdrawn without entry or payment of duty from a bonded warehouse.

Customs Response:

Customs disagrees that the phrase should be entirely deleted from § 10.62b(c). It serves to remind Customs and the party withdrawing the fuel that the fuel must be entered if not timely laden under 19 U.S.C. 1309. Customs agrees, however, that the phrase is inappropriate as used in § 10.62b(c)(1)(ii)(C). Section 10.62b(c)(1)(ii)(C) is revised consistent with the request made by the commenter.

Comment:

The commenter believes that it would be helpful to both Customs and importers to indicate in § 10.62b(c)(1) that the referenced documents should be submitted to Customs at the port where the bonded entry was filed.

Customs Response:

Customs agrees and the provision is modified.

Comment:

The commenter states, with reference to § 10.62b(g)(5), that blanket withdrawals of fuel from a bonded warehouse eliminate the need to file

a CF 7512. The commenter advocates that the provision be revised to provide that a withdrawal document meeting the requirements of § 10.62b can be submitted instead of CF 7512. The commenter also suggests that the withdrawal document, which is issued by the warehouse proprietor under § 10.62b(g)(5), could also be issued by a pipeline operator, barge or vessel operator, or other party acceptable to Customs.

In addition, the commenter wants to delete the requirement in § 10.62b(g)(5)(ii) that the withdrawal document identify the specific tank from which the bonded fuel is withdrawn. The commenter is of the opinion that because fuel may be withdrawn from several tanks in frequent batches at multi-tank terminals, the precise tank or tanks from which a particular batch of fuel is withdrawn cannot readily be known. Moreover, the commenter declares that precise tank identification is not currently maintained for commercial or Customs purposes.

Customs Response:

Customs disagrees with the suggested changes. As already mentioned, under § 144.37, Customs Regulations (19 CFR 144.37), a CF 7512, or a CF 7501, may be used to document withdrawals for export.

Because the warehouse proprietor is the party obligated under bond for the proper withdrawal of fuel supplies from the warehouse, the proprietor is the appropriate party to issue the withdrawal document. Customs believes that permitting another party, such as a pipeline, vessel, or barge operator, to issue a withdrawal document would impose an administrative burden on the agency as well as on the trade.

Furthermore, Customs believes that the withdrawal document must include the specific tank from which fuel is withdrawn in order to enable the agency to audit the withdrawal of the fuel accurately and effectively.

CONCLUSION

For these reasons, and after careful consideration of the comments and further review of the matter, Customs concludes that the interim rule published in the Federal Register (61 FR 6772) on February 22, 1996, as T.D. 96–18, should be adopted as a final rule with the changes explained above.

REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

As discussed in the interim rule, since the amendments are not subject to the notice and public procedure requirements of the Administrative Procedure Act (5 U.S.C. 553), they are not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do the amendments constitute a "significant regulatory action" under E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information contained in this final regulation has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1515–0209.

Part 178, Customs Regulations (19 CFR part 178) is amended to make provision for this information collection. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The collection of information in this final rule is in § 10.62b. This information is required and will be used to verify that turbine fuel withdrawn from a Customs bonded warehouse is used on aircraft qualifying for duty-free withdrawal of fuel supplies, in accordance with statutory law. The likely respondents are businesses.

The estimated average annual burden associated with the collection of information in this final rule is 12 hours per respondent/recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

List of Subjects

19 CFR Part 10

Customs duties and inspection, Exports, Imports, Reporting and recordkeeping requirements, Shipments.

19 CFR Part 18

Bonded transportation, Common carriers, Customs duties and inspection, Exports, Imports.

19 CFR Part 113

Common carriers, Customs duties and inspection, Exports, Freight, Laboratories, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, the interim rule amending parts 10, 18 and 113, Customs Regulations (19 CFR parts 10, 18 and 113), which was published at 61 FR 6772 on February 22, 1996, is adopted as a final rule with the changes set forth below. In addition, part 178 is amended to add a new listing to Customs approved information collection requirements.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for part 10, and the relevant specific authority citations, continue to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314.

* * * * * * *

Sections 10.61, 10.62, 10.63, 10.64, 10.64a also issued under 19 U.S.C. 1309;

* * * * * * *

Section 10.62b also issued under 19 U.S.C. 1557;

* * * * * * *

2. In § 10.62(a), the first sentence is amended by removing the reference to "Customs Form 7506" and by adding, in its place, "Customs Form 7501".

3. Section 10.62b is amended by revising paragraphs (c)(1) and (c)(1)(ii)(C) to read as follows:

§ 10.62b Aircraft turbine fuel.

* * * * * * *

(c) *Establishment of use of fuel by qualifying aircraft.* * * *

(1) The person withdrawing aircraft turbine fuel under paragraph (b) of this section must establish that an aircraft qualifying for the privileges provided for in section 309, Tariff Act of 1930, as amended, used fuel in an amount equal to or exceeding the quantity of the fuel withdrawn that is not entered and upon which duties are not paid by submitting to Customs, at the port where the bonded warehouse entry was filed, within the time provided in paragraph (d) of this section, either—

* * * * * * *

(ii) * * *

(C) All of the aircraft into which fuel is loaded hereunder were used in a trade provided for in section 309; and

* * * * * * *

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by adding a new listing to the table in appropriate numerical order to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	*Description*	*OMB Control No.*
* * *	* * *	*
§ 10.62b	Certificate of compliance for turbine fuel withdrawals	1515–0209
* * *	* * *	*

RAYMOND W. KELLY,
Commissioner of Customs.

Approved: March 8, 1999.
JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, April 5, 1999 (64 FR 16345)]

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19 CFR Part 178 and 192

(T.D. 99–34)

RIN 1515–AC19

EXPORTATION OF USED MOTOR VEHICLES

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement title IV of the Anti Car Theft Act of 1992, which concerns the exportation of used self-propelled vehicles. The amendments concern the nature of the documentation that establishes ownership of a vehicle bound for export and the presentment of that documentation to Customs. The document also clarifies procedures to enable Customs to more efficiently and effectively deter the export of stolen vehicles.

EFFECTIVE DATE: May 6, 1999.

FOR FURTHER INFORMATION CONTACT: Hugh Austin, Outbound Programs, Office of Field Operations, (202) 927–3735.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Regulations implementing current export control requirements applicable to used self-propelled vehicles, vessels, and aircraft are found at Part 192 of the Customs Regulations (19 CFR part 192). Since 1989, these regulations have, in general, required persons or entities seeking

to export used self-propelled vehicles to present both the vehicle and documentation, which includes the Vehicle Identification Number (VIN) or other product identification number, to Customs at least three days prior to shipment; Customs then checks the VIN against the databases of the National Crime Information Center (NCIC) to see if the vehicle has been reported stolen.

To strike back against auto thieves and carjackers, on October 25, 1992, the President signed the Anti Car Theft Act of 1992 (the Act)(Pub.L. 102–519, 106 Stat. 3384) in the hope that the legislation would reduce the level of auto thefts and carjackings—a major crime problem costing American car owners billions of dollars each year. *See*, H.R. 4542, 102th Cong., 2d Sess. (1992), *reprinted in* [1992] 5 U.S.C.C.&A.N. 2829. Title IV of the Act contains provisions pertaining to the export of stolen automobiles. Section 401 of title IV contains two provisions intended to tighten Customs enforcement against stolen car exporters. Section 401 amends Part VI of Title IV of the Tariff Act of 1930 by adding: new section 646A (19 U.S.C. 1646b), which directs Customs to conduct random checks of automobiles and containers to ensure that reported VIN information matches the VINs on vehicles being exported; and new section 646B (19 U.S.C. 1646c), which codifies Customs export reporting requirements, and directs Customs to check selected VINs against the information contained at the NCIC.

To implement section 401 of the Act and address certain other procedural problems present in the exportation of used motor vehicles pertaining to the authenticity of documentation presented to Customs to establish ownership of the vehicle to be exported, on October 28, 1997, Customs published a Notice of Proposed Rulemaking in the Federal Register (62 FR 55764) to amend the Customs Regulations at § 192.2, Customs Regulations (19 CFR 192.2), which pertains to the requirements for exporting such vehicles. The amendment proposed to revise the documentation requirements contained in paragraph (b) to better ensure that the documentation reflects ownership of the vehicle; the documentation presentment requirement contained in paragraph (c) to clarify the three-day rule; and the authentication requirement of paragraph (d) to make it conform with the above changes. The proposed amendment also added a new paragraph (e) to give port directors the authority to establish when and where the original documentation for the vehicle for export may be presented and where and when the vehicle may be inspected at their ports. The authority citation for Part 192 would also be revised to add the statutory citation for the Act discussed (19 U.S.C. 1646c).

The comment period closed on December 29, 1997. Forty-four comments were received. The comments and Customs responses to them follow.

DISCUSSION OF COMMENTS

Of the comments received, nine (9) supported the proposed changes and thirty-five (35) either opposed or suggested revisions to the proposed changes. Collectively, these comments concern four major areas.

1. *The requirement to present the original Certificate of Title or a certified copy of the original title issued by a government authority for export of the vehicle presented.*

Comment:

The majority of comments received argued that Customs should continue to accept notarized copies of title documents as sufficient proof of ownership of used vehicles intended to be exported, rather than adopt a requirement that only an original or a certified copy of the vehicle title issued by a government authority establishes ownership. These commenters stated that this new documentary requirement will slow the business of exporting used vehicles because of the added costs and time required to obtain these documents from sole-source state-issuing authorities. Accordingly, these commenters propose that Customs not institute the more stringent documentary requirement.

Customs Response:

Customs disagrees with the contention that notarized copies of an original title are sufficient to prove ownership of vehicles intended to be exported. Customs needs to be sure that the export of the vehicle presented is authorized by the true owner(s) of the vehicle. In light of the mandate contained in the Anti Car Theft Act of 1992 that Customs tighten enforcement against stolen car exporters, it is Customs position that the only documents which establish verifiable ownership are the original Certificate of Title or a certified copy issued by a government authority.

Original Certificates of Title contain security features designed to defeat fraud, counterfeiting, modifications, etc. Copies of original titles certified by the government-issuing authority also protect against fraud. The fact that these documents are issued by a single government agency in each jurisdiction registering motor vehicles adds to the trustworthiness of these documents.

Concerning notaries certifying "copies" of original documents as representing the "original" document, Customs understands the function of the majority of such acts as merely bearing witness/attesting to the placement of an original signature on a document, rather than certifying as to the authenticity of copies of original documents as "original" documents. (Indeed, some states expressly provide in their notary public application procedures that notaries do not have the power to certify the authenticity of any document, official or unofficial!) Accordingly, Customs can no longer accept such documents as meeting the requirement of establishing verifiable ownership with an intent to export the vehicle presented. Customs does not know of any document other than an original title for a vehicle or certified copy of the title issued by a

government authority that possesses the same level of trustworthiness to aid Customs in the prevention of exporting stolen vehicles.

Accordingly, the more stringent documentary requirement proposed will not be modified. However, because the comments received regarding the documentary requirements admit to some confusion concerning the words "certified copy" and "copy" of documents, definitions for these terms are added to § 192.1 to clarify their meaning in the regulations. A "certified" copy of an original title document is defined to mean "a document issued by a government authority that serves in place of the original Certificate of Title." It is felt that this definition provides the same trustworthiness factors discussed above for the original title. Where the word "copy" is used, Customs means a duplicate or photocopy of the original document. However, such a copy must be a true and complete copy, which means that a photocopy of the backside of the original document must also be presented where there is any writing on the backside of the original document (see discussion below regarding assignment). To reflect the requirement that both sides of the document must be copied where the original document contains any writing on its backside, Customs uses the phrase "complete copies".

Comment:

Where there has been an assignment of an original title, some commenters questioned whether this circumstance will require that a new Certificate of Title be issued before the vehicle can be exported.

Customs Response:

Where there has been an assignment of vehicle ownership with the back of the original title showing a proper transfer (with all required information regarding the assignment of ownership completed and legible) of the vehicle from one party to another, Customs believes that a new Certificate of Title need not be issued. The original title will be accepted by Customs, provided complete copies of the original title are submitted for authentication. Customs agrees that requiring an exporter of an assigned vehicle to re-title the used vehicle in his name prior to export would create an undue time and cost burden. However, if requested, the exporter should present the bill of sale with the assigned title.

Comment:

Concerning vehicles that are leased or have liens recorded on the original title, one commenter (representing a state licensing authority) requests that Customs make it clear in the regulations that the required letter from the owner of the vehicle is in addition to providing a certified copy of the original title.

Customs Response:

For vehicles that are leased or for which a recorded lien exists in the U.S., Customs will require additional documentation that proves consent by such third-parties-in-interest that the vehicles presented may

be exported. This third-party proof of consent must be in writing, give express permission for the vehicle to be exported, and bear the original signature of the third-party. The writing must be on the third-party's letterhead and include the date, a description of the vehicle which includes the VIN, the name of the owner of the leased vehicle or the lienholder, and a telephone number at which the owner or lienholder may be contacted. The exporter must provide this separate document with the original title or certified copy of the title to Customs at the time of presentation. If the original title or certified copy of the title shows that the lien has been properly released, then no written authorization from the lienholder will be required to be presented.

Comment:

Another commenter (representing an agency of the federal government) requests that U.S. government personnel on official travel be exempt from the proposed documentary presentment rules because the processing of large numbers of relocations by the agency's internal travel office would be severely hampered by complying with Customs proposed reporting procedure. Further, the commenter states that there is no risk that these vehicles are stolen.

Customs Response:

Because vehicles belonging to U.S. Government personnel temporarily reassigned abroad pursuant to official travel orders are processed and exported pursuant to official government travel department procedures and because the federal government employee on official travel is normally required to present documentary proof of vehicle ownership to the sponsoring agency's internal office prior to shipping, Customs agrees with the commenter that the threat of such vehicles being stolen is extremely low. Customs also agrees that to require U.S. Government employees to reestablish ownership of the vehicle at the time of export merely duplicates a procedure without benefit to the employee or Customs law enforcement responsibilities.

Accordingly, Customs is amending the general documentation requirement procedures at § 192.2(b)(1) to provide a general exception for U.S. Government military or civilian employees who are shipping their vehicles abroad in conjunction with official reassignment orders. Such personnel are presumed to have complied with the general documentation requirements of § 192.2(b), so long as the employee's official travel orders indicate that there has been compliance with the sponsoring agency's internal travel department procedures for vehicle export.

2. *Acceptable ownership documents for new or Original Equipment Manufacture (OEM) vehicles not titled but issued a Manufacturer's Statement of Origin (MSO); vehicles contained in in-bond movements; or vehicles in a salvage, junk, or scrap condition.*

Comment:

Many comments were received discussing the need for Customs to generally clarify the provisions of Part 192 concerning such issues as

definitions and other self-propelled "used" vehicle identification numbers, and whether an exporter of parts or components of used self-propelled vehicles is obligated to meet the Customs reporting requirements. One commenter recommended that Customs undertake a review of the regulations—presumably § 192.2—to address basic requirements for vehicles identified with Product Identification Numbers (PINS) and Hull Identification Numbers (HINs). Another commenter requested that the modifier "used" be inserted immediately before the term "vehicles" and before the specific listing of "automobiles, trucks, vans, minivans, motorcycles and buses" contained in 19 CFR 192 Subpart A. This same commenter pointed out that the terms, "used vehicles", "vehicles" and "vehicle" are ambiguous and are used interchangeably.

Concerning newly manufactured vehicles, one commenter noted that some states (California and Michigan) do not issue MSOs for newly purchased vehicles, and requests that Customs accept substitute documents, such as a dealer's invoice.

Concerning vehicles exported in a salvage, junk, or scrap condition, one commenter recommended that Customs remove the word "satisfactory" as regards the burden of proof exporters must bear to prove ownership of the vehicle, stating that Customs is not fully aware of all state laws regarding the titling, or lack thereof, of such vehicles and that giving such discretion to Customs agents promotes a lack of uniformity at the ports of exit.

Customs Response:

Customs agrees that the modifier "used" should be inserted immediately before the term "vehicles" contained in § 192.2(b). As concerns the listing of specific types of vehicles ("automobiles, trucks, vans, minivans, motorcycles and buses"), see the discussion below concerning the revised organization of the regulations.

Vehicles which do not meet Customs definition of "used" are considered new or OEM vehicles and do not have to be reported to Customs before the vehicle is exported. The question presented by these types of vehicles is whether title has been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser, either legally or equitably, prior to the vehicle's exportation.

If the legal or equitable title of the vehicle has been transferred prior to the vehicle's export, then the new or OEM vehicle must be reported to Customs before the vehicle can be exported; the vehicle having become "used" and subject to these export reporting regulations. In these cases, Customs will require the following documentation before export can occur: the Manufacturer's Statement of Origin (MSO) or, in cases where the vehicle is manufactured in a state by a company that does not issue MSOs for newly purchased vehicles, a document such as a dealer's invoice that proves ownership. In this latter instance, the burden of proof will be on the exporter to establish that the jurisdiction from where the vehicle comes does not have any ownership documentation require-

ments regarding such vehicles, and the exporter will be required to provide an original document showing his basis for ownership of the vehicle.

Regarding the comment as to whether an exporter of parts or components of used, self-propelled vehicles is obligated to meet the Customs reporting requirements of Part 192, these amendments are only concerned with the exportation of entire vehicles, not component parts. Accordingly, the comment is outside the scope of this final rule and no change to the regulations will be made. However, it is noted that the importation and exportation of stolen parts and components of vehicles renders the importer or exporter subject to the penalty and seizure and forfeiture provisions of 19 U.S.C. 1627a(a), as implemented by 19 CFR 192.3(c) and (d).

Vehicles that are exported from the U.S. as part of an in-bond movement are not subject to these export reporting requirements. In-bond movements, however, are subject to inspection at the discretion of Customs.

Regarding vehicles exported in a salvage, junk, or scrap condition, Customs is not concerned with the condition of the vehicle exported, but rather the type and status of the documentation for the vehicle. Since there is no national requirement concerning the titling of such vehicles and frequently government-issuing authorities have inconsistent or varying certification requirements for such vehicles, Customs must require of these vehicles the most authentic documents available to establish ownership of the vehicle to be exported. Accordingly, in those cases where the vehicle was issued an original Certificate of Title or a Salvage Title which remains in force, Customs will require presentation of that original title document pursuant to the provisions of § 192.2(b)(1). Also, in those cases where the vehicle was issued a junk or scrap certificate by a government authority that remains in force, Customs will require presentation of that original document pursuant to the provisions of § 192.2(b)(3)(iii). But, in those cases where the vehicle was not issued a Certificate of Title, a Salvage Title, or a junk or scrap certificate, or the title or certificate is no longer in force, Customs will accept such documents as a Bill of Sale as establishing ownership pursuant to the provisions of § 192.2(b)(3)(iv), provided: (1) the owner certifies to Customs in writing that the government-issuing authority for the jurisdiction has no registration/certification requirements for such vehicles, and (2) the owner attests in writing to the *bona fides* of the sale and that the vehicle presented for export is not stolen. Because a government-issuing authority will not necessarily be involved in the issuance of Bills of Sale, the burden of proof Customs places on exporters in this regard is not deemed unreasonable.

Regarding the commenter's observation that the word "satisfactory" (from proposed § 192.2(b)(3)) gives too much discretion to Customs agents and promotes a lack of uniformity at the ports of exit, Customs disagrees. Since the exporter is in a better position to report on the tit-

ling practices/requirements of the particular jurisdiction from where the vehicle comes, Customs believes that use of the word "satisfactory" does not place an undue burden on the exporter. Proof of a jurisdiction's titling practices/requirements requires merely a letter from the government agency responsible for titling vehicles that applicable regulations either exist or do not exist.

As discussed below, Customs is revising the heading and text of proposed § 192.2(b)(4) to more directly address the documentary requirements for exporting vehicles not titled, including "junk" and "scrap" vehicles.

3. *The security of original documents presented to Customs.*

Comment:

Some commenters were concerned about the security, *i.e.*, safe return, of original title documents left with Customs over the course of the 72-hour reporting requirement. While the risk of loss was cited as the overriding concern, liability issues, the burden of replacing the original, and additional costs in the form of additional exporter processing costs and the potential for lost business were also raised.

Customs Response:

If the timely return and risk of loss of original title documents are primary concerns with the process of presenting such documents to Customs, it is recommended that the exporter timely present the required documentation and wait while Customs verifies the authenticity of the documents. Then Customs can directly return the documents to the exporter. Exporters must understand Customs believes that the original title document is the single most important document needed to prevent the illegal export of stolen vehicles and that these regulatory changes are designed to tighten Customs enforcement against the exportation of stolen cars.

Regarding the commenters' issues of liability, the burden of replacing the original, and additional exporter processing costs, in those cases where the original title document was presented to and retained by Customs and cannot be found prior to the vehicle's export, the exporter's authenticated copy of the original documentation serves as evidence of compliance with the reporting requirements. However, where the original title document was returned to the exporter, then the exporter is liable for replacing the documents and bearing any processing costs associated with such replacement. While Customs is willing to work with individual exporters to address problems they may be experiencing at certain ports of entry, no systemic change to the documentation procedures provided herein will be made.

4. *The time requirement for submitting documents, and presenting the vehicle for inspection at a place other than at the port of export.*

Comment:

Several comments were received inquiring as to the time for document presentation and the beginning point of the required 72-hour

time period. One exporter stated that the requirement for exporters at seaports to submit all original documentation to Customs 72 hours prior to export, while the requirement for exporters at land borders to submit copies of documentation to Customs 72 hours prior to export, subject to presentation of originals at the time of export, did not seem very equitable. Another commenter suggested the following procedure at land borders regarding cars purchased at auction:

1. At the time of purchase, the auction will complete the Shipper's Export Declaration (SED) with attached certified copies of invoices and/or bills of sale (separate bills of sale are required by California law, but not other states);
2. The auction will give a copy of the SED to the purchasing motor vehicle dealer;
3. The auction will forward the original SED to a designated land border crossing (a specialized facility equipped to follow the procedures to expedite the legitimate export of used motor vehicles into Mexico); and
4. Customs will allow export 72 hours following receipt of the original SED, upon presentation of the motor vehicle with the copy of the SED by the purchasing Dealer.

Additional comments were received inquiring whether a vehicle could be inspected and certified at its point of origin, and whether a vehicle's documents could be verified at the point of export.

Customs Response:

Regarding the suggested auction procedure, Customs does not consider the SED document to be as trustworthy a document as the original Certificate of Title issued by a government agency, for the reasons discussed above under Customs first response. Further, the SED is a document protected by the Commerce laws with the result that Customs is generally precluded from sharing the information with other law enforcement agencies. The exporter who is required to complete the SED may or may not be the auto auction. Therefore, as an enforcement tool, the value of the SED is significantly lowered in Customs stated objective to more efficiently and effectively deter the export of stolen vehicles. Lastly, copies of invoices and/or bills of sale that are certified by an auto auction business do not meet the documentation requirements of these regulations for purposes of exporting a vehicle.

Accordingly, no change to the regulations will be made to accommodate this suggested documentation procedure.

Regarding the beginning of the required 72-hour time period, Customs notes that the proposed regulation provides that the original document and the vehicle be presented to Customs *at least* (emphasis supplied) 72 hours, to include not less than two full business days, prior to lading or in the case of the land border ports, prior to the intended date of export. This 72-hour time period is a statutory minimum time period. Customs has reconsidered its proposal to further delineate when this 72-hour time period begins or whether a time period, *i.e.*, the concept of "business days," falls within this time period minimum be-

cause, in fact, port directors can require greater time periods within which exporters must submit required documentation. The purpose of requiring the documentation *at least* 72-hours before export of the vehicle is so that Customs can cross-check the VIN with information entered into the NCIC on stolen vehicles. Accordingly, the provisions of proposed § 192.2(c) will be revised to remove the "2 full business days" concept so that the provisions of redenominated paragraph (d), which allow port directors to establish the locations and hours of operation for exporters to present required documentation, will not be compromised.

Regarding the different document and vehicle presentation requirements at seaports and land border ports, the operational differences at land border and seaports concerning vehicle presentation were explained in Treasury Decision 90–71, when the provisions of § 192.2(c) were first amended concerning this issue. However, the one commenter's observation that the proposed requirement for exporters at seaports to submit all original documentation to Customs 72 hours prior to export, while the proposed requirement for exporters at land borders to submit copies of documentation to Customs 72 hours prior to export, subject to presentation of originals at the time of export, did not seem very equitable, is valid and Customs agrees that implementation of the Act requires a uniform approach regarding presentment of documentation. Accordingly, the provisions of § 192.2(c) concerning the presentment of documentation are amended to require that exporters at land borders submit original documentation at least 72 hours before export of the vehicle, to parallel the requirement for exporters at seaports.

Concerning the presentation of a vehicle for inspection at a place other than at the port of export, Customs has recently amended its regulations at Part 118, which concerns Centralized Examination Stations, to authorize their use in the export of merchandise (*see*, 63 FR 16683, dated April 6, 1998; T.D. 98–29). Accordingly, Customs can direct that vehicles be inspected at locations other than at the port of export.

Other Changes

After review of the comments and further consideration of the proposal, Customs has decided to restructure § 192.2(b) to present a clearer understanding of the specific documentation required for certain used vehicles to be exported. Accordingly, instead of heading paragraphs (b)(1) through (b)(5) as they were proposed to be headed, the headings are changed to clearly direct readers to the requirements for (1) U.S.-titled vehicles; (2) foreign-titled vehicles; and (3) untitled vehicles. Under the heading for untitled vehicles, there are subparagraphs for the following categories: (1) newly-manufactured vehicles issued an MSO; (2) newly-manufactured vehicles not issued an MSO; (3) vehicles issued a junk or scrap certificate; and (4) vehicles issued a title or certificate that is not in force or are otherwise not registered. These changes are non-substantive.

With the restructuring of paragraph (b), Customs is not enumerating vehicle types such as automobiles, trucks, buses, etc., in the substantive

documentation requirements portion of this final rule document. Customs believes that the definition of 'Self-propelled vehicle" at § 192.1 is broad enough to cover any vehicle used or designated for running on land and that paragraphs (b)(1) through (b)(3) are applicable as drafted to all self-propelled vehicles that fall within the definition. Accordingly, the one comment suggesting that Customs incorporate by reference the generic vehicle's terminology used by National Highway Traffic Safety Administration and/or the Environmental Protection Agency to indicate which vehicles are subject to the regulations rather than list specific types of vehicles is not adopted.

It is also noted that Customs has decided to reverse the order of proposed paragraphs (d) and (e) of § 192.2 for organizational clarity. Thus, amended paragraph (d) will address where documents are to be presented and amended paragraph (e) will provide for the authentication of documents procedure.

Also, the general authority citation for Part 192 is revised to add the applicable Anti Car Theft Act provisions, and minor word changes to § 192.1 are made for clarity.

To reflect the paperwork requirements contained at § 192.2(b), part 178 of the Customs Regulations is also amended.

The Regulatory Flexibility Act and Executive Order 12866

In so far as the amendments are intended to assist Customs exercise its law enforcement responsibilities in prohibiting the export of stolen vehicles and to place a minimum burden on legitimate exporters of used vehicles, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.),* it is certified that the amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. The amendment does not meet the criteria for a "significant regulatory action" as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1515–0157. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The clarification of the collection of information in this final rule is in § 192.2. This information is necessary so that Customs can exercise its law enforcement responsibilities in prohibiting the export of stolen vehicles. Respondents or recordkeepers are already required by statute or regulation to maintain the vast majority of the information covered in this regulation. The likely respondents or recordkeepers are business organizations including importers, exporters and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 10 minutes per respondent or recordkeeper. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the U.S. Customs Service, Information Services Group, Office of Finance, 1300 Pennsylvania Ave., N.W., Washington, D.C. 20229; and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

DRAFTING INFORMATION

The principal author of this document was Gregory R. Vilders, Attorney, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS

19 CFR Part 178

Administrative practice and procedure, Collections of information, Exports, Imports, Paperwork requirements, Reporting and recordkeeping requirements.

19 CFR Part 192

Administrative practice and procedure, Customs duties and Inspection, Exports, Government employees, Motor Vehicles, Penalties.

AMENDMENTS TO THE REGULATIONS

For the reasons stated above, parts 178 and 192 of the Customs Regulations (19 CFR parts 178 and 192) is amended as set forth below:

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by revising the text of the listing for "Part 192" to read as follows:

§ 178.2 Listing of OMB control numbers.

19 CFR Section	*Description*	*OMB Control No.*
* * *	* * *	*
§ 192.2	Documentation requirements for exporting used, self-propelled vehicles, vessels, and aircraft.	1515–0157

PART 192—EXPORT CONTROL

1. The authority citation for part 192, Customs Regulations (19 CFR part 192), is revised to read as follows:

Authority: 19 U.S.C. 66, 1624, 1627a, 1646a, 1646b, 1646c.

2. Section 192.1 is amended by adding two new definitions, in appropriate alphabetical order, to read as follows:

§ 192.1 Definitions.

Certified. "Certified" when used with reference to a copy means a document issued by a government authority that includes on it a signed statement by the authority that the copy is an authentic copy of the original.

Copy. "Copy" refers to a duplicate or photocopy of an original document. Where there is any writing on the backside of an original document, a "complete copy" means that both sides of the document are copied.

* * * * * * *

3. Section 192.2 is amended as follows:

a. In the first sentence of paragraph (a), remove the words "a document" and add in their place the words "the required documentation"; and

b. Paragraphs (b), (c) and (d) are revised to read as follows:

§ 192.2 Requirements for exportation.

* * * * * * *

(b) *Documentation required.*

(1) *For U.S.-titled vehicles.* (i) *Vehicles issued an original certificate of title.* For used, self-propelled vehicles issued, by any jurisdiction in the United States, a Certificate of Title or a Salvage Title that remains in force, the owner must provide to Customs, at the time and place specified in this section, the original Certificate of Title or a certified copy of the Certificate of Title and two complete copies of the original Certificate of Title or certified copy of the original.

(ii) *Where title evidences third-party ownership/claims.* If the used, self-propelled vehicle is leased or a recorded lien exists in the U.S., in addition to complying with paragraph (b)(1)(i) of this section, the provisional owner must provide to Customs a separate writing from the third-party-in-interest which expressly provides that the subject vehicle may be exported. This writing must be on the third-party's letterhead paper, and contain a complete description of the vehicle including the Vehicle Identification Number (VIN), the name of the owner or lienholder of the leased vehicle, and the telephone numbers at which that owner or lienholder may be contacted. The writing must bear an original signature of the third-party and state the date it was signed.

(iii) *Where U.S. Government employees are involved.* If the used, self-propelled vehicle is owned by a U.S. government employee and is being exported in conjunction with that employee's reassignment abroad

pursuant to official travel orders, then, in lieu of complying with paragraph (b)(1)(i) of this section, the employee may be required to establish that he has complied with the sponsoring agency's internal travel department procedures for vehicle export.

(2) *For foreign-titled vehicles.* For used, self-propelled vehicles that are registered or titled abroad, the owner must provide to Customs, at the time and place specified in this section, the original document that provides satisfactory proof of ownership (with an English translation of the text if the original language is not in English), and two complete copies of that document (and translation, if necessary).

(3) *For untitled vehicles.*

(i) *Newly-manufactured vehicles issued an MSO.* For newly-manufactured, self-propelled vehicles that are purchased from a U.S. manufacturer, distributor, or dealer that become used, as defined in this subpart, and are issued a Manufacturer's Statement of Origin (MSO), but not issued a Certificate of Title by any jurisdiction of the United States, the owner must provide to Customs, at the time and place specified in this section, the original MSO and two complete copies of the original MSO.

(ii) *Newly-manufactured vehicles not issued an MSO.* For newly-manufactured, self-propelled vehicles purchased from a U.S. manufacturer, distributor, or dealer that become used, as defined in this subpart, and not issued an MSO or a Certificate of Title by any jurisdiction of the United States, the owner must establish that the jurisdiction from where the vehicle comes does not have any ownership documentation requirements regarding such vehicles and provide to Customs, at the time and place specified in this section, an original document that proves ownership, such as a dealer's invoice, and two complete copies of such original documentation.

(iii) *Vehicles issued a junk or scrap certificate.* For used, self-propelled vehicles for which a junk or scrap certificate issued, by any jurisdiction of the United States, remains in force, the owner must provide to Customs, at the time and place specified in this section, the original certificate or a certified copy of the original document and two complete copies of the original document or certified copy of the original.

(iv) *Vehicles issued a title or certificate that is not in force or are otherwise not registered.* For used, self-propelled vehicles that were issued, by any jurisdiction of the United States, a title or certificate that is no longer in force, or that are not required to be titled or registered, and for which an MSO was not issued, the owner must establish that the jurisdiction from where the vehicle comes does not have any ownership documentation requirements regarding such vehicles and provide to Customs, at the time and place specified in this section, the original document that shows his basis for ownership or right of possession, such as a bill of sale, and two complete copies of that original document. Further, the owner must certify in writing to Customs that the procure-

ment of the vehicle was a bona fide transaction, and that the vehicle presented for export is not stolen.

(c) *When presented.* (1) *Exportation by vessel or aircraft.* For those vehicles exported by vessel or aircraft, the required documentation and the vehicle must be presented to Customs at least 72 hours prior to export.

(2) *Exportation at land border crossing points.* For those vehicles exported by rail, highway, or under their own power:

(i) The required documentation must be submitted to Customs at least 72 hours prior to export; and

(ii) The vehicle must be presented to Customs at the time of exportation.

(d) *Where presented.* Port directors will establish locations at which exporters must present the required documentation and the vehicles for inspection. Port directors will publicize these locations, including their hours of operation.

(e) *Authentication of documentation.* Customs will determine the authenticity of the documents submitted. Once the authenticity of the documents is established, Customs will mark the documents. In most cases the original document(s) will be returned to the exporter. In those cases where the original title document was presented to and retained by Customs and cannot be found prior to the vehicle's export, the exporter's authenticated copy of the original documentation serves as evidence of compliance with the reporting requirements.

RAYMOND W. KELLY,
Commissioner of Customs.

Approved: March 16, 1999.

JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, April 6, 1999 (64 FR 16635)]

19 CFR Part 12

(T.D. 99–35)

RIN 1515–AC46

IMPORT RESTRICTIONS IMPOSED ON BYZANTINE ECCLESIASTICAL AND RITUAL ETHNOLOGICAL MATERIAL FROM CYPRUS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by imposing emergency import restrictions on certain ecclesiastical and ritual ethnological material from Cyprus representing the Byzantine period, ranging in date from approximately the 4th century A.D. through approximately the 15th century A.D. These restrictions are being imposed pursuant to a determination of the United States Information Agency issued under the terms of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document contains the Designated List describing the Byzantine ecclesiastical and ritual ethnological material from Cyprus to which the restrictions apply.

EFFECTIVE DATE: April 12, 1999.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Donnette Rimmer, Intellectual Property Rights Branch (202) 927–2273; (Operational Aspects) Joan E. Sebenaler, Trade Operations (202) 927–0402.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations.

This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub.L. 97–446, 19 U.S.C. 2601 *et seq.)* ("the Act"). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and to achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed either as a result of requests for emergency protection received from those nations or pursuant to bilateral agreements between the United States and other countries.

This document amends the regulations by adding additional ethnological artifacts to the list of articles for which importation restrictions exist.

CYPRUS

Under § 303(a)(3) of the Cultural Property Implementation Act (19 U.S.C. 2602(a)(3)), Cyprus, a State Party to the 1970 UNESCO Convention, asked the U.S. Government to impose import restrictions on certain categories of archeological and/or ethnological material the pillage of which, it was alleged, jeopardizes the national cultural patrimony of Cyprus. Notice of receipt of this request was published by the United States Information Agency (USIA) in the Federal Register (63 FR 49154) on September 14, 1998.

The request was forwarded to the Cultural Property Advisory Committee, which conducted a review and investigation and submitted its report in accordance with the provisions of 19 U.S.C. 2605(f) to the Deputy Director, USIA. Pursuant to the provisions of 19 U.S.C. 2603(a)(3), the Committee found the situation in Cyprus to be an emergency, and recommended that emergency import restrictions be imposed on certain Byzantine ritual and ecclesiastical ethnological material from Cyprus. The Deputy Director, pursuant to the authority vested in him under Executive Order 12555 and USIA Delegation Order 86–3, considered the Committee's recommendations and on March 4, 1999, the Acting Director made the determination that emergency import restrictions be applied.

The Commissioner of Customs, in consultation with the Acting Director of the USIA, has developed a list of types of covered ritual and ecclesiastical ethnological material from Cyprus representing the Byzantine period. The materials on this list are subject to § 12.104a(b), Customs Regulations (19 CFR 12.104a(b)). As provided in 19 U.S.C. 2601 *et seq.*, and § 12.104a(b), Customs Regulations, listed materials from this area may not be imported into the U.S. unless accompanied by documentation certifying that the material left Cyprus legally and not in violation of the laws of Cyprus.

In the event an importer cannot produce the certificate, documentation, or other evidence required by § 12.104c, Customs Regulations (19 CFR 12.104c) at the time of making entry, § 12.104d, Customs Regulations (19 CFR 12.104d) provides that the port director shall take custody of the material until the certificate, documentation, or evidence is presented. Section 12.104e provides that if the importer states in writing that he will not attempt to secure the required certificate, documentation, or evidence, or the importer does not present the required certificate, documentation, or evidence to Customs within the time provided, the material shall be seized and summarily forfeited to the U.S. in accordance with the provisions of Part 162, Customs Regulations (19 CFR Part 162).

List of Ecclesiastical and Ritual Ethnological Material from Cyprus Representing the Byzantine Period

Ecclesiastical and ritual ethnological material from Cyprus representing the Byzantine period dating from approximately the 4th century A.D. through the 15th century A.D., includes the categories listed below. The following list is representative only.

I. Metal

A. Bronze

Ceremonial objects include crosses, censers (incense burners), rings, and buckles for ecclesiastical garments. The objects may be decorated with engraved or modeled designs or Greek inscriptions. Crosses, rings and buckles are often set with semi-precious stones.

B. Lead

Lead objects date to the Byzantine period and include ampulla (small bottle-shaped forms) used in religious observance.

C. Silver and Gold

Ceremonial vessels and objects used in ritual and as components of church treasure. Ceremonial objects include censers (incense burners), book covers, liturgical crosses, archbishop's crowns, buckles, and chests. These are often decorated with molded or incised geometric motifs or scenes from the Bible, and encrusted with semi-precious or precious stones. The gems themselves may be engraved with religious figures or inscriptions. Church treasure may include all of the above, as well as rings, earrings, and necklaces (some decorated with ecclesiastical themes) and other implements (*e.g.* spoons).

II. WOOD

Artifacts made of wood are primarily those intended for ritual or ecclesiastical use during the Byzantine period. These include painted icons, painted wood screens (iconstasis), carved doors, crosses, painted wooded beams from churches or monasteries, thrones, chests and musical instruments. Religious figures (Christ, the Apostles, the Virgin, and others) predominate in the painted and carved figural decoration. Ecclesiastical furniture and architectural elements may also be decorated with geometric or floral designs.

III. IVORY AND BONE

Ecclesiastical and ritual objects of ivory and bone boxes, plaques, pendants, candelabra, stamp rings, crosses. Carved and engraved decoration includes religious figures, scenes from the Bible, and floral and geometric designs.

IV. GLASS

Ecclesiastical objects such as lamps and ritual vessels.

V. TEXTILES—RITUAL GARMENTS

Ecclesiastical garments and other ritual textiles from the Byzantine period. Robes, vestments and altar clothes are often of a fine fabric and richly embroidered in silver and gold. Embroidered designs include religious motifs and floral and geometric designs.

VI. STONE

A. Wall Mosaics

Dating to the Byzantine period, wall mosaics are found in ecclesiastical buildings. These generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding panels may contain animal, floral, or geometric designs.

B. Floor Mosaics

Floor mosaics from ecclesiastical contexts. Examples include the mosaics at Nea Paphos, Kourion, Kouklia, Chrysopolitissa Basilica and Campanopetra Basilica. Floor mosaics may have animal, floral, geometric designs, or inscriptions.

VII. FRESCOES/WALL PAINTINGS

Wall paintings from the Byzantine period religious structures (churches, monasteries, chapels, etc.) Like the mosaics, wall paintings generally portray images of Christ, Archangels, and the Apostles in scenes of Biblical events. Surrounding paintings may contain animal, floral, or geometric designs.

INAPPLICABILITY OF NOTICE AND DELAYED EFFECTIVE DATE

This amendment is being made without notice or public procedure, pursuant to 5 U.S.C. 553(b)(B), because the action being taken is of an emergency nature and such notice or public procedure would be im-

practicable and contrary to the public interest. For the same reasons, pursuant to 5 U.S.C. 553(d)(3), a delayed effective date is not required.

REGULATORY FLEXIBILITY ACT

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

EXECUTIVE ORDER 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

DRAFTING INFORMATION

The principal author of this document was Keith B. Rudich, Esq., Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

LIST OF SUBJECTS IN 19 CFR PART 12

Customs duties and inspections, Imports, Cultural property.

AMENDMENT TO THE REGULATIONS

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—[AMENDED]

1. The general authority and specific authority citation for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * * * *

2. In § 12.104g(b) the list of emergency actions imposing import restrictions on described articles of cultural property of State Parties is amended by adding Cyprus in appropriate alphabetical order as follows:

§ 12.104g Specific items or categories designated by agreements or emergency actions.

* * * * * * *

(b) * * *

State Party	*Cultural Property*	*T.D. No.*
Cyprus	Byzantine Ecclesiastical and Ritual Ethnological Materials from Cyprus	T.D. 99–35

RAYMOND W. KELLY,
Commissioner of Customs.

Approved: March 30, 1999.
DENNIS M. O'CONNELL,
Acting Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, April 12, 1999 (64 17529)]

(T.D. 99–36)

FOREIGN CURRENCIES

DAILY RATES FOR COUNTRIES NOT ON QUARTERLY LIST FOR MARCH 1999

The Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Holiday: None.

Greece drachma:

March 1, 1999	$0.003389
March 2, 1999	.003393
March 3, 1999	.003384
March 4, 1999	.003362
March 5, 1999	.003369
March 6, 1999	.003369
March 7, 1999	.003369
March 8, 1999	.003386
March 9, 1999	.003378
March 10, 1999	.003409
March 11, 1999	.003400
March 12, 1999	.003403
March 13, 1999	.003403
March 14, 1999	.003403
March 15, 1999	.003399

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for March 1999 (continued):

Greece drachma (continued):

March 16, 1999	$0.003398
March 17, 1999	.003434
March 18, 1999	.003418
March 19, 1999	.003400
March 20, 1999	.003400
March 21, 1999	.003400
March 22, 1999	.003392
March 23, 1999	.003384
March 24, 1999	.003364
March 25, 1999	.003356
March 26, 1999	.003307
March 27, 1999	.003307
March 28, 1999	.003307
March 29, 1999	.003284
March 30, 1999	.003296
March 31, 1999	.003313

Luxembourg franc

March 1, 1999	$0.026998
March 2, 1999	.027097
March 3, 1999	.026991
March 4, 1999	.026832
March 5, 1999	.026879
March 6, 1999	.026879
March 7, 1999	.026879
March 8, 1999	.027018
March 9, 1999	.026953
March 10, 1999	.027172
March 11, 1999	.027100
March 12, 1999	.027110
March 13, 1999	.027110
March 14, 1999	.027110
March 15, 1999	.027095
March 16, 1999	.027058
March 17, 1999	.027305
March 18, 1999	.027243
March 19, 1999	.027077
March 20, 1999	.027077
March 21, 1999	.027077
March 22, 1999	.027058
March 23, 1999	.027065
March 24, 1999	.027072
March 25, 1999	.026949
March 26, 1999	.026631
March 27, 1999	.026631
March 28, 1999	.026631
March 29, 1999	.026564
March 30, 1999	.026604
March 31, 1999	.026792

South Korea won:

March 1, 1999	$0.000818
March 2, 1999	.000816
March 3, 1999	.000813
March 4, 1999	.000806
March 5, 1999	.000805

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for March 1999 (continued):

South Korea won (continued):

March 6, 1999	$0.000805
March 7, 1999	.000805
March 8, 1999	.000806
March 9, 1999	.000809
March 10, 1999	.000810
March 11, 1999	.000812
March 12, 1999	.000810
March 13, 1999	.000810
March 14, 1999	.000810
March 15, 1999	.000812
March 16, 1999	.000813
March 17, 1999	.000814
March 18, 1999	.000816
March 19, 1999	.000820
March 20, 1999	.000820
March 21, 1999	.000820
March 22, 1999	.000817
March 23, 1999	.000815
March 24, 1999	.000817
March 25, 1999	.000816
March 26, 1999	.000817
March 27, 1999	.000817
March 28, 1999	.000817
March 29, 1999	.000816
March 30, 1999	.000813
March 31, 1999	.000814

Taiwan N.T. dollar:

March 1, 1999	$0.030257
March 2, 1999	.030211
March 3, 1999	.030166
March 4, 1999	.030120
March 5, 1999	.029940
March 7, 1999	.029940
March 8, 1999	.030120
March 9, 1999	.030102
March 10, 1999	.030166
March 11, 1999	.030166
March 12, 1999	.030157
March 13, 1999	.030157
March 14, 1999	.030157
March 15, 1999	.030193
March 16, 1999	.030175
March 17, 1999	.030120
March 18, 1999	.030211
March 19, 1999	.030202
March 20, 1999	.030202
March 21, 1999	.030202
March 22, 1999	.030184
March 23, 1999	.030166
March 24, 1999	.030166
March 25, 1999	.030143
March 26, 1999	.030139
March 27, 1999	.030139
March 28, 1999	.030139
March 29, 1999	.030120

FOREIGN CURRENCIES—Daily rates for countries not on quarterly list for March 1999 (continued):

Taiwan N.T. dollar (continued):	
March 30, 1999	$0.030120
March 31, 1999	.030148

Dated: April 7, 1999.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 99–37)

FOREIGN CURRENCIES

QUARTERLY RATES OF EXCHANGE: APRIL 1, 1999 THROUGH JUNE 30, 1999

The table below lists rates of exchange, in United States dollars for certain foreign currencies, which are based upon rates certified to the Secretary of the Treasury by the Federal Reserve of New York under provisions of 31 U.S.C. 5151, for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Country	Name of currency	U.S. dollars
Australia	Dollar	$0.635400
Brazil	Cruzado	0.578035
Canada	Dollar	0.665646
China, P.R.	Renminbi yuan	0.120779
Denmark	Krone	0.144991
Hong Kong	Dollar	0.129034
India	Rupee	0.023529
Iran	Rial	N/A
Israel	New Sheqel	N/A
Japan	Yen	0.008320
Malaysia	Dollar	0.262158
Mexico	Peso	0.105070
New Zealand	Dollar	0.534500
Norway	Krone	0.128982
Philippines	Peso	N/A
Singapore	Dollar	0.578202
South Africa, Republic of	Rand	0.162075
Sri Lanka	Rupee	0.014378
Sweden	Krona	0.121264
Switzerland	Franc	0.675219
Thailand	Baht (tical)	0.026511
United Kingdom	Pound	1.606300
Venezuela	Bolivar	0.001713

Dated: April 7, 1999.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

(T.D. 99–38)

FOREIGN CURRENCIES

VARIANCES FROM QUARTERLY RATES FOR MARCH 1998

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to 31 U.S.C. 5151, and reflect variances of 5 per centum or more from the quarterly rates published in Treasury Decision 99–5 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Holiday: None.

Austria schilling:

March 1, 1999	$0.079148
March 2, 1999	.079439
March 3, 1999	.079126
March 4, 1999	.078661
March 5, 1999	.078799
March 6, 1999	.078799
March 7, 1999	.078799
March 8, 1999	.079206
March 9, 1999	.079017
March 10, 1999	.079657
March 11, 1999	.079446
March 12, 1999	.079475
March 13, 1999	.079475
March 14, 1999	.079475
March 15, 1999	.079431
March 16, 1999	.079322
March 17, 1999	.080049
March 18, 1999	.079867
March 19, 1999	.079381
March 20, 1999	.079381
March 21, 1999	.079381
March 22, 1999	.079322
March 23, 1999	.079344
March 24, 1999	.079366
March 25, 1999	.079003
March 26, 1999	.078072
March 27, 1999	.078072
March 28, 1999	.078072
March 29, 1999	.077876
March 30, 1999	.077992
March 31, 1999	.078545

Belgium franc:

March 1, 1999	$0.026998
March 2, 1999	.027097
March 3, 1999	.026991
March 4, 1999	.026832
March 5, 1999	.026879
March 6, 1999	.026879
March 7, 1999	.026879

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Belgium franc (continued):

March 8, 1999	$0.027018
March 9, 1999	.026953
March 10, 1999	.027172
March 11, 1999	.027100
March 12, 1999	.027110
March 13, 1999	.027110
March 14, 1999	.027110
March 15, 1999	.027095
March 16, 1999	.027058
March 17, 1999	.027305
March 18, 1999	.027243
March 19, 1999	.027077
March 20, 1999	.027077
March 21, 1999	.027077
March 22, 1999	.027058
March 23, 1999	.027065
March 24, 1999	.027072
March 25, 1999	.026949
March 26, 1999	.026631
March 27, 1999	.026631
March 28, 1999	.026631
March 29, 1999	.026564
March 30, 1999	.026604
March 31, 1999	.026792

Brazil real:

March 1, 1999	$0.487805
March 2, 1999	.460829
March 3, 1999	.454545
March 4, 1999	.473934
March 5, 1999	.500000
March 6, 1999	.500000
March 7, 1999	.500000
March 8, 1999	.506329
March 9, 1999	.520833
March 10, 1999	.534759
March 11, 1999	.527704
March 12, 1999	.523560
March 13, 1999	.523560
March 14, 1999	.523560
March 15, 1999	.531915
March 16, 1999	.537634
March 17, 1999	.529101
March 18, 1999	.534759
March 19, 1999	.539084
March 20, 1999	.539084
March 21, 1999	.539084
March 22, 1999	.534759
March 23, 1999	.539084
March 24, 1999	.542005
March 25, 1999	.554017
March 26, 1999	.564972
March 27, 1999	.564972
March 28, 1999	.564972

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Brazil real (continued):

March 29, 1999	$0.563380
March 30, 1999	.576369
March 31, 1999	.581395

Denmark krone:

March 1, 1999	$0.146628
March 2, 1999	.146951
March 3, 1999	.146421
March 4, 1999	.145628
March 5, 1999	.145964
March 6, 1999	.145964
March 7, 1999	.145964
March 8, 1999	.146735
March 9, 1999	.146252
March 10, 1999	.147384
March 11, 1999	.147005
March 12, 1999	.147124
March 13, 1999	.147124
March 14, 1999	.147124
March 15, 1999	.146962
March 16, 1999	.146886
March 17, 1999	.148313
March 18, 1999	.147940
March 19, 1999	.147137
March 20, 1999	.147137
March 21, 1999	.147137
March 22, 1999	.146716
March 23, 1999	.146746
March 24, 1999	.146908
March 25, 1999	.146220
March 26, 1999	.144467
March 27, 1999	.144467
March 28, 1999	.144467
March 29, 1999	.144134
March 30, 1999	.144415
March 31, 1999	.145391

Finland markka:

March 1, 1999	$0.183173
March 2, 1999	.183846
March 3, 1999	.183123
March 4, 1999	.182047
March 5, 1999	.182366
March 6, 1999	.182366
March 7, 1999	.182366
March 8, 1999	.183308
March 9, 1999	.182871
March 10, 1999	.184351
March 11, 1999	.183863
March 12, 1999	.183930
March 13, 1999	.183930
March 14, 1999	.183930
March 15, 1999	.183829
March 16, 1999	.183577
March 17, 1999	.185259
March 18, 1999	.184839

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Finland markka (continued):

March 19, 1999	$0.183712
March 20, 1999	.183712
March 21, 1999	.183712
March 22, 1999	.183577
March 23, 1999	.183628
March 24, 1999	.183678
March 25, 1999	.182837
March 26, 1999	.180684
March 27, 1999	.180684
March 28, 1999	.180684
March 29, 1999	.180230
March 30, 1999	.180499
March 31, 1999	.181778

France franc:

March 1, 1999	$0.166032
March 2, 1999	.166642
March 3, 1999	.165986
March 4, 1999	.165011
March 5, 1999	.165300
March 6, 1999	.165300
March 7, 1999	.165300
March 8, 1999	.166154
March 9, 1999	.165758
March 10, 1999	.167099
March 11, 1999	.166657
March 12, 1999	.166718
March 13, 1999	.166718
March 14, 1999	.166718
March 15, 1999	.166627
March 16, 1999	.166398
March 17, 1999	.167923
March 18, 1999	.167541
March 19, 1999	.166520
March 20, 1999	.166520
March 21, 1999	.166520
March 22, 1999	.166398
March 23, 1999	.166444
March 24, 1999	.166490
March 25, 1999	.165727
March 26, 1999	.163776
March 27, 1999	.163776
March 28, 1999	.163776
March 29, 1999	.163364
March 30, 1999	.163608
March 31, 1999	.164767

Germany deutsche mark:

March 1, 1999	$0.556848
March 2, 1999	.558893
March 3, 1999	.556695
March 4, 1999	.553422
March 5, 1999	.554394
March 6, 1999	.554394
March 7, 1999	.554394
March 8, 1999	.557257

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Germany deutsche mark (continued):

March 9, 1999	$0.555928
March 10, 1999	.560427
March 11, 1999	.558944
March 12, 1999	.559149
March 13, 1999	.559149
March 14, 1999	.559149
March 15, 1999	.558842
March 16, 1999	.558075
March 17, 1999	.563188
March 18, 1999	.561910
March 19, 1999	.558484
March 20, 1999	.558484
March 21, 1999	.558484
March 22, 1999	.558075
March 23, 1999	.558228
March 24, 1999	.558382
March 25, 1999	.555825
March 26, 1999	.549281
March 27, 1999	.549281
March 28, 1999	.549281
March 29, 1999	.547900
March 30, 1999	.548718
March 31, 1999	.552604

Ireland pound:

March 1, 1999	$1.382872
March 2, 1999	1.387951
March 3, 1999	1.382491
March 4, 1999	1.374364
March 5, 1999	1.376777
March 6, 1999	1.376777
March 7, 1999	1.376777
March 8, 1999	1.383888
March 9, 1999	1.380586
March 10, 1999	1.391760
March 11, 1999	1.388078
March 12, 1999	1.388586
March 13, 1999	1.388586
March 14, 1999	1.388586
March 15, 1999	1.387824
March 16, 1999	1.385919
March 17, 1999	1.398616
March 18, 1999	1.395442
March 19, 1999	1.386935
March 20, 1999	1.386935
March 21, 1999	1.386935
March 22, 1999	1.385919
March 23, 1999	1.386300
March 24, 1999	1.386681
March 25, 1999	1.380332
March 26, 1999	1.364080
March 27, 1999	1.364080
March 28, 1999	1.364080
March 29, 1999	1.360651
March 30, 1999	1.362683
March 31, 1999	1.372333

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Italy lira:

March 1, 1999	$0.000562
March 2, 1999	.000565
March 3, 1999	.000562
March 4, 1999	.000559
March 5, 1999	.000560
March 6, 1999	.000560
March 7, 1999	.000560
March 8, 1999	.000563
March 9, 1999	.000562
March 10, 1999	.000566
March 11, 1999	.000565
March 12, 1999	.000565
March 13, 1999	.000565
March 14, 1999	.000565
March 15, 1999	.000564
March 16, 1999	.000564
March 17, 1999	.000569
March 18, 1999	.000568
March 19, 1999	.000564
March 20, 1999	.000564
March 21, 1999	.000564
March 22, 1999	.000564
March 23, 1999	.000564
March 24, 1999	.000564
March 25, 1999	.000561
March 26, 1999	.000555
March 27, 1999	.000555
March 28, 1999	.000555
March 29, 1999	.000553
March 30, 1999	.000554
March 31, 1999	.000558

Japan yen:

March 1, 1999	$0.008348
March 2, 1999	.008301
March 3, 1999	.008218
March 4, 1999	.008097
March 5, 1999	.008159
March 6, 1999	.008159
March 7, 1999	.008159
March 8, 1999	.008215
March 9, 1999	.008237
March 10, 1999	.008344
March 11, 1999	.008363
March 12, 1999	.008404
March 13, 1999	.008404
March 14, 1999	.008404
March 17, 1999	.008464
March 22, 1999	.008465
March 23, 1999	.008473
March 25, 1999	.008471
March 26, 1999	.008313
March 27, 1999	.008313
March 28, 1999	.008313

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Japan yen (continued):	
March 29, 1999	$0.008349
March 30, 1999	.008326
March 31, 1999	.008444
Netherlands guilder:	
March 1, 1999	$0.494212
March 2, 1999	.496027
March 3, 1999	.494076
March 4, 1999	.491172
March 5, 1999	.492034
March 6, 1999	.492034
March 7, 1999	.492034
March 8, 1999	.494575
March 9, 1999	.493395
March 10, 1999	.497388
March 11, 1999	.496073
March 12, 1999	.496254
March 13, 1999	.496254
March 14, 1999	.496254
March 15, 1999	.495982
March 16, 1999	.495301
March 17, 1999	.499839
March 18, 1999	.498704
March 19, 1999	.495664
March 20, 1999	.495664
March 21, 1999	.495664
March 22, 1999	.495301
March 23, 1999	.495437
March 24, 1999	.495573
March 25, 1999	.493304
March 26, 1999	.487496
March 27, 1999	.487496
March 28, 1999	.487496
March 29, 1999	.486271
March 30, 1999	.486997
March 31, 1999	.490446
Norway krone:	
March 1, 1999	$0.125786
March 2, 1999	.126183
March 3, 1999	.125929
March 4, 1999	.125884
March 5, 1999	.126502
March 6, 1999	.126502
March 7, 1999	.126502
Portugal escudo:	
March 1, 1999	$0.005432
March 2, 1999	.005452
March 3, 1999	.005431
March 4, 1999	.005399
March 5, 1999	.005408
March 6, 1999	.005408
March 7, 1999	.005408
March 8, 1999	.005436
March 9, 1999	.005423

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Portugal escudo (continued):

March 10, 1999	$0.005467
March 11, 1999	.005453
March 12, 1999	.005455
March 13, 1999	.005455
March 14, 1999	.005455
March 15, 1999	.005452
March 16, 1999	.005444
March 17, 1999	.005494
March 18, 1999	.005482
March 19, 1999	.005448
March 20, 1999	.005448
March 21, 1999	.005448
March 22, 1999	.005444
March 23, 1999	.005446
March 24, 1999	.005447
March 25, 1999	.005422
March 26, 1999	.005359
March 27, 1999	.005359
March 28, 1999	.005359
March 29, 1999	.005345
March 30, 1999	.005353
March 31, 1999	.005391

South Africa, Republic of, rand:

March 1, 1999	$0.160449
March 2, 1999	.160064
March 3, 1999	.160000
March 4, 1999	.160026
March 5, 1999	.160953
March 6, 1999	.160953
March 7, 1999	.160953
March 8, 1999	.161290
March 9, 1999	.162140
March 12, 1999	.161681
March 13, 1999	.161681
March 14, 1999	.161681
March 15, 1999	.160901
March 16, 1999	.159821
March 17, 1999	.160462
March 18, 1999	.159744
March 19, 1999	.161551
March 20, 1999	.161551
March 21, 1999	.161551
March 22, 1999	.161943
March 23, 1999	.160256
March 24, 1999	.161225
March 25, 1999	.161160
March 26, 1999	.159617
March 27, 1999	.159617
March 28, 1999	.159617
March 29, 1999	.160424
March 30, 1999	.160901
March 31, 1999	.162075

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Spain peseta:

March 1, 1999	$0.006546
March 2, 1999	.006570
March 3, 1999	.006544
March 4, 1999	.006505
March 5, 1999	.006517
March 6, 1999	.006517
March 7, 1999	.006517
March 8, 1999	.006550
March 9, 1999	.006535
March 10, 1999	.006588
March 11, 1999	.006570
March 12, 1999	.006573
March 13, 1999	.006573
March 14, 1999	.006573
March 15, 1999	.006569
March 16, 1999	.006560
March 17, 1999	.006620
March 18, 1999	.006605
March 19, 1999	.006565
March 20, 1999	.006565
March 21, 1999	.006565
March 22, 1999	.006560
March 23, 1999	.006562
March 24, 1999	.006564
March 25, 1999	.006534
March 26, 1999	.006457
March 27, 1999	.006457
March 28, 1999	.006457
March 29, 1999	.006440
March 30, 1999	.006450
March 31, 1999	.006496

Switzerland franc:

March 1, 1999	$0.683995
March 2, 1999	.685777
March 3, 1999	.684463
March 4, 1999	.680272
March 5, 1999	.680921
March 6, 1999	.680921
March 7, 1999	.680921
March 8, 1999	.684369
March 9, 1999	.681431
March 10, 1999	.686530
March 11, 1999	.680967
March 12, 1999	.684556
March 13, 1999	.684556
March 14, 1999	.684556
March 15, 1999	.682128
March 16, 1999	.681896
March 17, 1999	.690465
March 18, 1999	.688042
March 19, 1999	.683995
March 20, 1999	.683995
March 21, 1999	.683995
March 22, 1999	.683060
March 23, 1999	.685589

FOREIGN CURRENCIES—Variances from quarterly rates for March 1998 (continued):

Switzerland franc (continued):

March 24, 1999	$0.686106
March 25, 1999	.681153
March 26, 1999	.673627
March 27, 1999	.673627
March 28, 1999	.673627
March 29, 1999	.672179
March 30, 1999	.671592
March 31, 1999	.676819

Venezuela bolivar:

March 10, 1999	$0.002091

Dated: April 7, 1999.

RICHARD B. LAMAN,
Chief,
Customs Information Exchange.

U.S. Customs Service

General Notices

LIST OF FOREIGN ENTITIES VIOLATING TEXTILE TRANSSHIPMENT AND COUNTRY OF ORIGIN RULES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Scott Greenberg, National Seizures and Penalties Officer, Seizures and Penalties Division, Office of Field Operations, (415)782–9442. For information regarding any of the legal aspects, contact Ellen McClain, Office of Chief Counsel, at 202–927–6900.

SUPPLEMENTARY INFORMATION

BACKGROUND

Section 333 of the Uruguay Round Agreements Act (URAA)(Public Law 103–465, 108 Stat. 4809)(signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592A), which authorizes the Secretary of the Treasury to publish in the Federal Register, on a biannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of

lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products; (3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition, supplemental petition or second supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by sections 171.32 and 171.33, Customs Regulations (19 CFR 171.32, 171.33) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 30 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must rely on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

1) Has the importer had a prior relationship with the named party?

2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

7) What is the history of this country regarding this commodity?

8) Have you asked questions of your supplier regarding the origin of the product?

9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a biannual publication of the names of the foreign entities and/or persons. On October 5, 1998, Customs published a Notice in the Federal Register (63 FR 53493) which identified 26 (twenty-six) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending March 31, 1999, Customs has identified 24 (twenty-four) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects the addition of 3 new entities and 5 removals to the 26 entities named on the list published on October 5, 1998. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 24 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 24 foreign parties are as

follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the Federal Register):

Azmat Bangladesh, Plot Number 22–23, Sector 2 EPZ, Chittagong 4233, Bangladesh. (9/96)

Cupid Fashion Manufacturing Ltd., 17/F Block B, Wongs Factory Building, 368–370 Sha Tsui Road, Tsuen Wan, Hong Kong. (9/97)

Excelsior Industrial Company, 311–313 Nathan Road, Room 1, 15th Floor, Kowloon, Hong Kong. (9/98)

Eun Sung Guatemala, S.A., 13 Calle 3–62 Zona Colonia Landivar, Guatemala City, Guatemala. (3/98)

Everlast Glove Factory, Goldfield Industrial Centre, 1 Sui Wo Road, Room 15, 15th Floor, Fo Tan, Shatin, New Territories, Hong Kong. (3/99)

Glory Growth Trading Company, No.6 Ping Street, Flat 7–10, Block A, 21st Floor, New Trade Plaza, Shatin, New Territories, Hong Kong. (9/98)

Great Southern International Limited, Flat A, 13th floor, Foo Cheong Building, 82–86 Wing Lok Street, Central, Hong Kong. (9/98)

G.T. Plus Ltd., Kowloon Centre, 29–43 Ashley Road, 4/Fl, Tsimshatsui, Kowloon, Hong Kong. (3/99)

Hyattex Industrial Company, 3F, No. 207–4 Hsin Shu Road, Hsin Chuang City, Taipei Hsien, Taiwan. (9/96)

Jentex Industrial, 7–1 Fl., No. 246, Chang An E. Rd., Sec.2, Taipei, Taiwan. (3/97)

Jiangxi Garments Import and Export Corp., Foreign Trade Building, 60 Zhangqian Road, Nanchang, China. (3/98)

Liable Trading Company, 1103 Kai Tak Commercial Building, 62–72 Stanley Street, Kowloon, Hong Kong. (9/98)

Li Xing Garment Company Limited, 2/F Long Guang Building, Number 2 Manufacturing District, Sanxiang Town, Zhongshan, Guandgong, China. (9/96)

Mabco Limited, 6/F VIP Commercial Centre, 116–120 Canton Road, Kowloon, Hong Kong. (3/99)

McKowan Lowe & Company Limited, 1001–1012 Hope Sea Industrial Centre, 26 Lam Hing Street, Kowloon Bay, Kowloon, Hong Kong. (9/98)

Meigao Jamaica Company Limited, 134 Pineapple Ave., Kingston, Jamaica. (9/96)

Meiya Garment Manufacturers Limited, No. 2 Building, 3/F, Shantou Special Economic Zone, Shantou, China. (9/96)

Rex Industries Limited, VIP Commercial Center, 116–120 Canton Road, 11th Floor, Tsimshatsui, Kowloon, Hong Kong. (9/98)

Sannies Garment Factory, 35–41 Tai Lin Pai Road, Gold King Industrial Building, Flat A & B, 2nd Floor, Kwai Chung, New Territories, Hong Kong. (9/98)

Shing Fat Gloves & Rainwear, 2 Tai Lee Street, 1–2 Floor, Yuen Long, New Territories, Hong Kong. (9/98)

Sun Kong Glove Factory, 188 San Wan Road, Units 32–35, 3rd Floor, Block B, Sheung Shui, New Territories, Hong Kong. (9/98)

Sun Weaving Mill Ltd., Lee Sum Factory Building, Block 1 & 2, 23 Sze Mei Street, Sanpokong, Bk 1/2, Kowloon, Hong Kong. (9/97)

Takhi Corporation, Huvsgalchdyn Avenue, Ulaanbaatar 11, Mongolia. (3/98)

Topstyle Limited, 6/F, South Block, Kwai Shun Industrial Center, 51–63 Container Port Road, Kwai Chung, New Territories, Hong Kong. (9/96)

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

ADDITIONAL FOREIGN ENTITIES

In the October 5, 1998, Federal Register notice, Customs also solicited information regarding the whereabouts of 29 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 29 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

In this document, a new list is being published which contains the names and last known addresses of 31 entities. This reflects the addition of two new entities to the list.

Customs is soliciting information regarding the whereabouts of the following 31 foreign entities concerning alleged violations of section 592. Their names and last known addresses are listed below (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the Federal Register):

Balmar Export Pte. Ltd., No. 7 Kampong Kayu Road, Singapore, 1543. (3/98)

Envestisman Sanayi A.S., Buyukdere Cad 47, Tek Is Merkezi, Istanbul, Turkey. (9/97)

Essence Garment Making Factory, Splendid Centre, 100 Larch Street, Flat D, 5th Floor, Taikoktsui, Kowloon, Hong Kong. (3/98)

Fabrica de Artigos de Vest. Dynasty, Lda., Avenida do Almirante Magalhaes Correia, Edificio Industrial Keck Seng, Block III, 4th Floor "UV", Macau. (3/98)

Fabrica de Artigos de Vestuario Lei Kou, No. 45 Estrada Marginal de Areia Preta, Edif.Ind.Centro Polytex, 6th Floor, D, Macau. (9/98)

Fabrica de Vestuario Wing Tai, 45 Estrada Marginal Da Areia Preta, Edif. Centro Poltex, 3/E, Macau. (3/98)

Galaxy Gloves Factory, Annking Industrial Building, Wang Yip East Street Room A, 2/F, Lot 357, Yuen Long Industrial Estate, Yuen Long, New Territories, Hong Kong. (3/98)

Golden Perfect Garment Factory, Wong's Industrial Building, 33 Hung To Road, 3rd Floor, Kwun Tong, Kowloon, Hong Kong. (9/98)

Grey Rose Maldives, Phoenix Villa, Majeedee Magu, Male, Republic of Maldives. (3/98)

K & J Enterprises, Witty Commercial Building, 1A–1L Tung Choi Street, Room 1912F, Mong Kok, Kowloon, Hong Kong. (9/98)

Konivon Development Corp., Shun Tak Center, 200 Connaught Road, No. 3204, Hong Kong. (3/98)

Kwuk Yuk Garment Factory, Kwong Industrial Building, 39–41 Beech St., Flat A, 11th Floor, Tai Kok Tsui, Kowloon, Hong Kong. (3/98)

Land Global Ltd., Block c, 14/F, Y.P. Fat Building, Phase 1, 77 Hoi Yuen Road, Kowloon, Hong Kong. (9/97)

Leader Glove Factory, Tai Ping Industrial Centre, 57, Ting Kok Road, 25/F, Block 1, Flat A, Tai Po, New Territories, Hong Kong. (3/98)

Lins Fashions S.A., Lot 111, San Pedro de Macoris, Dominican Republic. (9/96)

Maxwell Garment Factory, Unit C, 21/F, 78–84, Wang Lung Street, Tseun Wan, New Territories, Hong Kong. (3/99)

New Leo Garment Factory Ltd, Galaxy Factory Building, 25–27 Luk Hop Street, Unit B, 18th Floor, San Po Kong, Kowloon, Hong Kong. (9/98)

Patenter Trading Company, Block C. 14/F, Yip Fat Industrial Building, Phase 1, 77 Hoi Yuen Road, Kowloon, Hong Kong. (9/97)

Penta–5 Holding (HK) Ltd., Metro Center II, 21 Lam Hing Street, Room 1907, Kowloon Bay, Kowloon, Hong Kong. (9/98)

Round Ford Investments, 37–39 Ma Tau Wai Road, 13/f Tower B, Kowloon, Hong Kong. (9/97)

Shanghai Yang Yuan Garment Factory, 2 Zhaogao Road, Chuanshin, Shanghai, China. (9/97)

Silver Pacific Enterprises Ltd., Shun Tak Center, 200 Connaught Road, No. 3204, Hong Kong. (3/98)

Tak Hing Textile Company Limited, Wo Fung Industrial Building, 3/F, block D, Lot No. 5180, IN D.D 51, On Lok Village, Fanling, New Territories, Hong Kong. (3/99)

Tat Hing Garment Factory, Tat Cheong Industrial Building, 3 Wing Ming Street, Block C, 13/F, Lai Chi Kok, Kowloon, Hong Kong. (3/98)

Tientak Glove Factory Limited, 1 Ting Kok Road, Block A, 26/F, Tai Po, New Territories, Hong Kong. (3/98)

United Textile and Weaving, P.O. Box 40355, Sharjah, United Arab Emirates. (3/97)

Wealthy Dart, Wing Ka Industrial Building, 87 Larch Street, 7th Floor, Kowloon, Hong Kong. (3/98)

Wilson Industrial Company, Yip Fat Factory Building, 77 Hoi Yuen Road, Room B, 3/F, Kwun Yong, Kowloon, Hong Kong. (3/98)

Wing Lung Manufactory, Hing Wah Industrial Building, Units 2, 5–8, 4th Floor YLTL 373, Yuen Long, New Territories, Hong Kong. (9/98)

Yogay Fashion Garment Factory Ltd, Lee Wan Industrial Building, 5 Luk Hop Street, San Po Kong, Kowloon, Hong Kong. (3/98)

Zuun Mod Garment Factory Ltd., Tuv Aimag, Mongolia. (9/97)

If you have any information as to a correct mailing address for any of the above 31 firms, please send that information to the Assistant Com-

missioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

Dated: April 1, 1999.

GARNET J. FEE,
Acting Assistant Commissioner,
Office of Field Operations.

[Published in the Federal Register, April 6, 1999 (64 FR 16781)]

DATES AND DRAFT AGENDA OF THE TWENTY-THIRD SESSION OF THE HARMONIZED SYSTEM COMMITTEE OF THE WORLD CUSTOMS ORGANIZATION

AGENCIES: U.S. Customs Service, Department of the Treasury, and U.S. International Trade Commission.

ACTION: Publication of the dates and draft agenda for the twenty-third session of the Harmonized System Committee of the World Customs Organization.

SUMMARY: This notice sets forth the dates and draft agenda for the next session of the Harmonized System Committee of the World Customs Organization.

DATE: April 6, 1999.

FOR FURTHER INFORMATION CONTACT: Myles B. Harmon, Director, International Agreements Staff, U.S. Customs Service (202–927–2255), or Eugene A. Rosengarden, Director, Office of Tariff Affairs and Trade Agreements, U.S. International Trade Commission (202–205–2592).

SUPPLEMENTARY INFORMATION:

BACKGROUND

The United States is a contracting party to the International Convention on the Harmonized Commodity Description and Coding System ("Harmonized System Convention"). The Harmonized Commodity Description and Coding System ("Harmonized System"), an international nomenclature system, form the core of the U.S. tariff, the Harmonized Tariff Schedule of the United States. The Harmonized System Convention is under the jurisdiction of the World Customs Organization (established as the Customs Cooperation Council).

Article 6 of the Harmonized System Convention establishes a Harmonized System Committee ("HSC"). The HSC is composed of representatives from each of the contracting parties to the Harmonized

System Convention. The HSC's responsibilities include issuing classification decisions on the interpretation of the Harmonized System. Those decisions may take the form of published tariff classification opinions concerning the classification of an article under the Harmonized System or amendments to the Explanatory Notes to the Harmonized System. The HSC also considers amendments to the legal text of the Harmonized System. The HSC meets twice a year in Brussels, Belgium. The next session of the HSC will be the twenty-third, and it will be held from May 3–14, 1999.

In accordance with section 1210 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), the Department of the Treasury, represented by the U.S. Customs Service, the Department of Commerce, represented by the Census Bureau, and the U.S. International Trade Commission ("IT"), jointly represent the U.S. government at the sessions of the HSC. The Customs Service representative serves as the head of the delegation at the sessions of the HSC.

Set forth below is the draft agenda for the next session of the HSC. Copies of available agenda-item documents may be obtained from either the Customs Service or the ITC. Comments on agenda items may be directed to the above-listed individuals.

MYLES B. HARMON,
Director,
International Agreements Staff.

[Attachment: Attachent A]

Attachment A

DRAFT AGENDA FOR THE TWENTY-THIRD SESSION OF THE HARMONIZED SYSTEM COMMITTEE

Monday, May 3 (10 a.m.) to Friday, May 14, 1999.

N.B. Questions under Agenda Item VII will be examined first by the presessional Working Party (from Wednesday 28 to Friday 30 April 1999)

I.

ADOPTION OF THE AGENDA

Draft Agenda	NC0001E1
Draft Timetable	NC0002E1

II.

REPORT BY THE SECRETARIAT

1. Position regarding Contracting parties to the HS Convention and related matters	NC0003E1
2. Report of the Policy Commission (40th Session)	NC0004E1
3. Approval of decisions taken by the Harmonized System Committee at its 22nd Session	Docs. 42.823 (HSC/22) NC0005E1
4. Technical assistance activities of the Nomenclature and Classification Sub-Directorate	NC0006E1
5. Co-operation with other international organizations	NC0007E1
6. Other	

III.

GENERAL QUESTIONS

1. Co-operation with the Technical Committee on Rules of Origin	Docs. 42.397 (HSC/22) NC0008E1
2. Development of HS audiovisual training materials	NC0009E1
3. Establishment of a correlation between the Harmonized System and various international conventions	NC0010E1
4. Policy issues relating to the Harmonized System	NC0011E1
(a) Fast-track procedure for HS reservations	
(b) binding status of HSC decisions	
(c) Improvement of the dispute settlement procedures	
5. Simplified tariff treatment of certain goods	NC0012E1
6. Annual survey to determine percentage of national revenues represented by Customs duties	NC0013E1

IV.

RECOMMENDATIONS

1. Review of certain Recommendations adopted by the WCO	NC0014E1
2. Draft Recommendation concerning ozone layer depleting substances	NC0015E1

V.

REPORT OF THE SCIENTIFIC SUB-COMMITTEE

VI.

REPORT OF THE HS REVIEW SUB-COMMITTEE

VII.

REPORT OF THE PRESESSIONAL WORKING PARTY

VIII.

FURTHER STUDIES

1. Possible amendment to the Explanatory Notes to heading 17.04 concerning "detectable" cocoa content	NC0039E1
2. Definition of food preparations	NC0040E1
3. Deleted	
4. Deleted	
5. Classification Opinion concerning a specific "Veegum" product	NC0043E1
6. Possible amendments to the nomenclature to clarify the classification of certain vitamin-based preparations	NC0044E1
7. Proposed new subheadings 4011.21 and 4011.22	NC0045E1
8. Amendments to the Nomenclature to clarify the scope of heading 44.09	NC0046E1
9. Possible amendments to subheadings 5102.10, 5105.30 and 6110.10	NC0047E1
10. Classification of imagesetters and ink-jet printers and study of the Explanatory Note to heading 84.42	NC0048E1
11. Possible amendments of the Explanatory Note to heading 84.71	Docs. 42.448 42.508 (HSC/22)
12. Classification of repeaters used in LAN systems or in the telephone line system	NC0049E1
13. Classification of the multimedia upgrade kits "I See You Plus"	NC0050E1
14. Classification of the "Color QuickCam"	NC0051E1
15. Classification of a video card, sound card and software therefor	NC0052E1
16. Amendment of Note 6 to Chapter 85	NC0053E1
17. Classification of the "MVX" voice processing system	Doc. 42.450 (HSC/22)
18. Classification of closed circuit video equipment	NC0054E1
19. Study concerning the possible amendment of the Nomenclature with a view to clarifying the classification of digital cameras	NC0055E1

IX.

NEW QUESTIONS

1. Classification of non-aromatic cut tobacco	Docs. 42.083 (HSC/21)
2. Classification of certain special shampoos	Doc. 42.074 (HSC/21)
3. Classification of "Katia" fungicides	Docs. 42.065 (HSC/21) 42.470 (HSC/22)
4. Classification of certain specially designed plastics bottles	Doc. 42.059 (HSC/21)
5. Alignment of the English and French versions of Note 3 to Section XVI	Doc. 42.082 (HSC/21)
6. Classification of frequency converters	Doc. 42.067 (HSC/21)
7. Possible amendment of the Explanatory Notes concerning ammonium nitrate fertilisers	Doc. 42.485 (HSC/22) NC0068E1
8. Classification of certain hand and foot warmers	Doc. 42.478 (HSC/22)
9. Classification of certain drilled lumber used in construction	Doc. 42.487 (HSC/22) NC0070E1
10. Classification of coins	Doc. 42.468 (HSC/22)

NEW QUESTIONS—Continued

11. Classification of aluminum covers for cans	Doc. 42.510 (HSC/22)
12. Classification of tools made of base metal	Doc. 42.486 (HSC/22)
13. Classification of a freezer for foodstuffs	Doc. 42.509 (HSC/22)
14. Classification of the "Pentium II CPU"	Doc. 42.461 (HSC/22)
15. Classification of the "PIX-DSX-1 Digital Cross-Connect"	Doc. 42.493 (HSC/22)
16. Proposal by Argentina for the amendment of the Subheading Explanatory Note to subheading 8524.39	Doc. 42.724 (HSC/22)
17. Classification of language laboratory equipment	Doc. 42.731 (HSC/22)
18. Study with a view to establishing guidelines for the classification of double-cab pick-up vehicles	NC0056E1
19. Classification of two-wheeled golf carts	Doc. 42.477 (HSC/22)
20. Classification of laser pointers	Doc. 42.497 (HSC/22)
21. Classification of a "dialyser" and a "microbarrier"	Doc. 42.726 (HSC/22)
22. Scope of the term "scale" in subheading 9503.20	Doc. 42.462 (HSC/22)
23. Classification of certain stationery sets	Doc. 42.437 (HSC/22)
24. Classification of certain microwave ovens	NC0057E1
25. Classification of vehicles with removable seats or benches	NC0058E1
26. Classification of multifunctional digital copiers	NC0059E1
27. Classification of hands-free radiotelephony devices and possible amendments to heading 85.18 and subheading 8518.30 to the Explanatory Note concerned	NC0060E1
28. Classification of a laminated product, called "PolySwitch", consisting of outer layers of nickel and an inner layer of plastics	NC0061E1
29. Classification of the "Smirnoff Mule" beverage	NC0062E1
30. Classification of "Jumicar" vehicles	NC0063E1
31. Possible amendment of the Explanatory Note to heading 96.01	NC0064E1
32. Classification of "Meloxicam"	NC0066E1
33. Classification of a compression type refrigerator	NC0041E1
34. Classification of a loading arm	NC0067E1
35. Classification of bakers' wares (waffles)	NC0069E1
36. Classification of the "Media Composer 1000"	NC0071E1

X.

HS Article 16 Recommendation	NC0065E1

XI.

OTHER BUSINESS

1. List of questions which might be examined at a future session	NC0038E1

XII.

DATES OF THE NEXT SESSIONS

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, April 7, 1999.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

STUART P. SEIDEL,
Assistant Commissioner,
Office of Regulations and Rulings.

PROPOSED REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO CLASSIFICATION OF NUTRITIONAL PREMIXES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of classification ruling letters and treatment relating to the classification of nutritional premixes.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke two ruling letters pertaining to the tariff classification of nutritional premixes and any treatment previously accorded by the Customs Service to substantially identical transactions. Comments are invited on the correctness of the intended action.

DATE: Comments must be received on or before May 21, 1999.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to and may be inspected at the U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, N.W., Washington D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Peter T. Lynch, General Classification Branch, 202–927–1396.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L.

103–182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility**." These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that Customs intends to revoke two ruling letters pertaining to the tariff classification of nutritional premixes. Although in this notice Customs is specifically referring to two rulings, New York Ruling Letters (NY) 804034 and 815648, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise the Customs Service during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise the Customs Service of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to this notice.

In NY 804034, dated December 2, 1994, the classification of a product described as a multi-vitamin/mineral supplement, in granular form, containing excipients necessary for tabletizing the granules for commercial sale which was to be imported in bulk form was determined to be classified in subheading 3003.90.0000, Harmonized Tariff Schedule of the United States (HTSUS). This ruling letter is set forth in "Attachment A" to this document.

In NY 815648, dated November 3, 1995, the classification of a product described as a water-dispersable mixture of vitamins and a single mineral also was determined to be classified in subheading 3003.90.0000, HTSUS. This ruling letter is set forth in "Attachment B" to this document. Since the issuance of these rulings, Customs has had a chance to review the classifications of this merchandise and has determined that the classifications are in error.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to revoke NY 804034, NY 815648 and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed Headquarters Ruling Letters (HQ) 961132 and 961915 (*see* Attachments "C" and "D" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: April 1, 1999.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, December 2, 1994.

CLA–2–30:S:N:N7:238 804034
Category: Classification
Tariff No. 3003.90.0000

MR. MICHAEL SWENSON
PAMOL USA, INC.
68 Veronica Avenue
Somerset, NJ 08873–3464

Re: The tariff classification of "Centra-Tab" multi-vitamin/mineral granules, imported in bulk form, from India.

DEAR MR. SWENSON:

In your letter dated November 2, 1994, you requested a tariff classification ruling.

The subject product, which you refer to as "Centra Tab", is a multi-vitamin/mineral supplement, in granular form, containing excipients (e.g., microcrystalline cellulose, povi-

done) necessary for tabletizing the granules for commercial sale. You indicate that the granules will be imported in bulk form.

The applicable subheading for the subject product will be 3003.90.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for: "Medicaments * * * consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale: Other." The rate of duty will be 6 percent ad valorem.

This merchandise may be subject to the regulations of the Food and Drug Administration. You may contact them at 5600 Fishers Lane, Rockville, Maryland 20857, telephone number (301) 443–6553.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, November 3, 1995.

CLA–2–30:R:N2:238 815648
Category: Classification
Tariff No. 3003.90.0000

MR. RICHARD J. SALAMONE
BASF CORPORATION
3000 Continental Drive—North
Mount Olive, NJ 07828–1234

Re: The tariff classification of Nutritional Premixes DC Ref. 1367 and 1368, in bulk form, from Denmark.

DEAR MR. SALAMONE:

In your letter dated October 5, 1995, you requested a tariff classification ruling.

The subject products, Nutritional Premixes DC Ref. 1367 and 1368, each consist of a water-dispersible mixture of vitamins and a single mineral, which are, in turn, blended with a water-soluble carrier to provide a final product suitable for addition to human food.

The applicable subheading for the subject products will be 3003.90.0000, Harmonized Tariff Schedule of the United States (HTS), which provides for: "Medicaments * * * consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale: Other." The rate of duty will be free.

This merchandise may be subject to the regulations of the Food and Drug Administration. You may contact them at 5600 Fishers Lane, Rockville, Maryland 20857, telephone number (301) 443–6553.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist C. Reilly at 212–466–5770.

ROGER J. SILVESTRI,
Director,
National Commodity Specialist Division.

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA–2 RR:CR:GC 961132ptl
Category: Classification
Tariff No. 2106.90.9998

MR. GARY SELANDER
PRESIDENT
PHARMATERIAL, INC.
175 Lakeside Blvd.
Suite 15–423
Landing, NJ 07843

Re: Multi-vitamin/mineral granules in bulk; NY 804034 revoked.

DEAR MR. SELANDER:

This is in response to your letter of October 14, 1997, to the National Commodity Specialist Division, New York, requesting reconsideration of New York Ruling Letter (NY) 804034, dated December 2, 1994, which had been issued to Pamol USA, Inc. You stated that PharMaterial, Inc. purchased the business of Pamol USA. Your letter was forwarded to this office for a response. We regret the delay. Customs has reviewed that ruling and has determined the classification provided to be incorrect. Therefore, this ruling revokes NY 804034 and sets forth the correct classification of the multi-vitamin/mineral granules.

Facts:

The merchandise is identified as "Centra-Tab", a multi-vitamin/mineral supplement, in granular form, containing excipients (e.g., microcrystalline cellulose, povidone) necessary for tabletizing the granules for commercial sale. The granules will be imported in bulk form. After being formed into tablets, the product will be marketed as non-prescription, daily multivitamin supplements. No health benefit claims are made for the product. In NY 804043, the product was classified in subheading 3003.90.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for medicaments * * * consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale, other.

Issue:

What is the classification of multi-vitamin/mineral granules?

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied in order.

The HTSUS headings under consideration are as follows:

2106	Food preparations not elsewhere specified or included:
	Other:
	Other:
	Other:
	Other:
	Other:
2106.90.99	Other:
2106.90.9998	Other.
3003	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale:
3003.90.0000	Other.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The subject blend of vitamins and minerals is designed as a dietary supplement for general maintenance of health and well-being. There are no claims or indications of usage for the product's being intended for the treatment of any specific condition or ailment. The product is intended to be taken on a daily basis as a food supplement whether or not actually needed to promote health and general good feelings. The concentrations of vitamins and minerals in the mixture are comparatively low and do not reach levels found in therapeutic dosages which are usually only taken under the supervision and direction of a physician.

Chapter 30, HTSUS, covers pharmaceutical products. Of special significance to the instant analysis is note 1(a) to chapter 30, which states: "This chapter does not cover: (a) Foods or beverages (such as dietetic, diabetic or fortified foods, **food supplements**, tonic beverages and mineral waters) (section IV)". (Emphasis added) Chapter notes are part of the legal text of the HTSUS, and are to be considered statutory provisions of law for all purposes. Because the chapter notes are mandatory authority for classification, merchandise described by note 1(a) to chapter 30 is excluded from classification in that chapter.

The exclusion of the instant products from chapter 30 is reinforced by the ENs to both headings 30.03 and 30.04 which provide that:

> Further this heading excludes food supplements containing vitamins or mineral salts which are put up for the purpose of maintaining health or well-being but have no indication as to use for the prevention or treatment of any disease or ailment. These products which are usually in liquid form but may also be put up in powder or tablet form, are generally classified in heading 21.06 or Chapter 22.

Inasmuch as this product is excluded from chapter 30, we turn to the alternative provisions directed by the ENs. Chapter 22, HTSUS, covers Beverages, Spirits and Vinegar, which are all liquids. Because the product is a dry good of granules, Chapter 22 is inappropriate.

Chapter 21 covers miscellaneous edible preparations. As the product is a food preparation and has not been found to be specified or included elsewhere in the HTSUS, a heading in chapter 21 would need to be given consideration as a potential heading for classification. The only heading in chapter 21 that appears to provide for the product is heading 2106 which provides for "food preparations not elsewhere specified or included." Guidance concerning the coverage of heading 2106 can be found in the ENs to this heading:

> (16) Preparations, often referred to as *food supplements*, based on extracts from plants, fruit concentrates, honey, fructose, etc. and containing added vitamins and sometimes minute quantities of iron compounds. These preparations are often put up in packagings with indications that they maintain general health or well-being. Similar preparations, however, intended for the prevention or treatment of diseases or ailments are **excluded (heading 30.03 or 30.04)**.

In fact, this EN is consistent with the previously discussed ENs to headings 3003 and 3004, wherein heading 2106 is specifically identified as a potential heading for the classification of vitamin—or mineral-salt-fortified, liquid foods. In the instant case, the product clearly fits the above description. We conclude that the multi-vitamin food supplement granules are properly classified as food preparations in heading 2106, HTSUS.

Holding:

"Centra-Tab", a multi-vitamin/mineral supplement, in granular form, containing excipients (e.g., microcrystalline cellulose, povidone) necessary for tabletizing the granules for commercial sale is classified in subheading 2106.90.9998, HTSUS, the provision for food preparations not elsewhere specified or included: other: other: other: other: other: other: other.

NY 804034 is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA–2 RR:CR:GC 961915ptl
Category: Classification
Tariff No. 2106.90.9998

MR. RICHARD J. SALAMONE
BASF CORPORATION
3000 Continental Drive—North
Mount Olive, NJ 07828–1234

Re: Nutritional premixes DC Ref. 1367 and 1368; NY 815648 revoked.

DEAR MR. SALAMONE:

In New York Ruling Letter (NY) 815648, issued to you on November 3, 1995, Customs ruled that certain nutritional premixes identified as DC Ref. 1367 and 1368 were classified in subheading 3003.90.0000, Harmonized Tariff Schedule of the United States (HTSUS), which provides for "Medicaments * * * consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale: Other." Customs has reviewed that ruling and determined that classification to be incorrect. Therefore, this ruling revokes NY 815648 and sets forth the correct classification of the nutritional premixes.

Facts:

The merchandise is identified as nutritional premixes DC Ref. 1367 and 1368. Both products are water-dispersible mixtures of vitamins and a single mineral, in powder form, which serve as a source of multiple vitamins. Both products are in bulk form. The vitamins are blended with a water-soluble carrier (carbohydrate: maltodextrin) to provide a final product suitable for addition to human food. No health benefit claims are made for the product.

In your initial request to Customs for a classification ruling dated October 5, 1995, you proposed that the goods be classified in subheading 2936.90.0000, HTSUS, which provides for "Provitamins and vitamins, * * *, intermixtures of the foregoing, whether or not in any solvent; other."

Issue:

What is the classification of nutritional premix in bulk form?

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUS is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied in order.

In understanding the language of the HTSUS, the Harmonized Commodity Description and Coding System Explanatory Notes may be utilized. The Explanatory Notes (ENs), although not dispositive or legally binding, provide a commentary on the scope of each heading of the HTSUS, and are generally indicative of the proper interpretation of these headings. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The products under consideration are intended to be used as additives to human food to provide vitamin supplements to the diet.

The HTSUS headings under consideration are as follows:

2106	Food preparations not elsewhere specified or included:
	Other:
	Other:
	Other:
	Other:
	Other:
2106.90.99	Other:

2106.90.9998	Other.
2936	Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent:
2936.90.0000	Other, including natural concentrates.
3003	Medicaments (excluding goods of heading 3002, 3005 or 3006) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in forms or packings for retail sale:
3003.90.0000	Other.

In your original classification request, you suggest that heading 2936, HTSUS, was the correct for this product. At first reading, the heading appears to cover the mixtures of vitamins we are considering. However, the EN to 29.36 states, in pertinent part, that the heading includes: (c) Intermixtures of vitamins, * * * **provided** that the quantity added or the processing in no case exceeds that necessary for their preservation or transport and that the addition or processing does not alter the character of the basic product and render it particularly suitable for specific use rather than for general use. The subject product cannot be classified in heading 2936, HTSUS, because it has been processed far beyond that which is necessary for preservation or transportation. Additionally, the precise formulae in which the various vitamins in the products have been mixed has rendered the products suitable for specific rather than general use.

The blend of vitamins and minerals is designed as a dietary supplement for general maintenance of health and well-being. There are no claims or indications of usage for the product's being intended for the treatment of any specific condition or ailment. The product is intended to be added to food, not taken to cure or prevent any particular ailment or condition. The concentrations of vitamins and minerals in the mixture are comparatively low and do not reach levels found in therapeutic dosages which are usually only taken under the supervision and direction of a physician.

Chapter 30, HTSUS, covers pharmaceutical products. Of special significance to the instant analysis is note 1(a) to chapter 30, which states: "This chapter does not cover: (a) Foods or beverages (such as dietetic, diabetic or fortified foods, food supplements, tonic beverages and mineral waters) (section IV)". Chapter notes are part of the legal text of the HTSUS, and are to be considered statutory provisions of law for all purposes. Because the chapter notes are mandatory authority for classification, merchandise described by note 1(a) to chapter 30 is excluded from classification in that chapter.

The exclusion of the instant products from chapter 30 is reinforced by the ENs to both headings 30.03 and 30.04 which provide that:

> Further this heading excludes food supplements containing vitamins or mineral salts which are put up for the purpose of maintaining health or well-being but have no indication as to use for the prevention or treatment of any disease or ailment. These products which are usually in liquid form but may also be put up in powder or tablet form, are generally classified in heading 21.06 or Chapter 22.

Inasmuch as this product is excluded from chapter 30, we turn to the alternative provisions directed by the ENs. Chapter 22, HTSUS, covers Beverages, Spirits and Vinegar, which are all liquids. Because the product is in dry powder form, Chapter 22 is inappropriate.

Chapter 21 covers miscellaneous edible preparations. As the product is a food preparation and has not been found to be specified or included elsewhere in the HTSUS, a heading in chapter 21 would need to be given consideration as a potential heading for classification. The only heading in chapter 21 that appears to provide for the product is heading 2106 which provides for "food preparations not elsewhere specified or included." Guidance concerning the coverage of heading 2106 can be found in the ENs to this heading:

> (16) Preparations, often referred to as *food supplements*, based on extracts from plants, fruit concentrates, honey, fructose, etc. and containing added vitamins and sometimes minute quantities of iron compounds. These preparations are often put up in packagings with indications that they maintain general health or well-being. Similar preparations, however, intended for the prevention or treatment of diseases or ailments are **excluded (heading 30.03 or 30.04)**.

In fact, this EN is consistent with the previously discussed EN to heading 3003, wherein heading 2106 is specifically identified as a potential heading for the classification of vita-

min—or mineral-salt-fortified, liquid foods. In the instant case, the product clearly fits the above description. We conclude that the multi-vitamin food supplement nutritional premixes are properly classified as food preparations in heading 2106, HTSUS.

Holding:

Nutritional premixes DC Ref. 1367 and 1368, water-dispersible mixtures of vitamins, in bulk powder form, which are blended with a water-soluble carrier (carbohydrate: maltodextrin) to provide a final product suitable for addition to human food to serve as a source of multiple vitamins are classified in subheading 2106.90.9998, HTSUS, the provision for food preparations not elsewhere specified or included: other: other: other: other: other: other: other.

NY 815648 is revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED REVOCATION OF RULING LETTER AND TREATMENT RELATING TO THE TARIFF CLASSIFICATION OF UNFINISHED "PUFF" COMFORTERS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of and treatment relating to the Tariff classification of unfinished "Puff" comforters.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), this notice advises interested parties that customs intends to revoke a ruling pertaining to the classification of "puff" comforters and any treatment previously accorded by Customs to substantially identical transactions. Comments are invited on the correctness of the proposed ruling.

DATE: Comments must be received on or before May 21, 1999.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Textiles Classification Branch, 1300 Pennsylvania Avenue. N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Commercial Rulings Division, Office of Regulations and Rulings, 1300 Pennsylvania Avenue, N.W., Washington D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Textile Branch, (202) 927–1031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), (hereinafter "Title VI"), became effective.

Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs intends to revoke a ruling letter pertaining to the classification of a "puff" comforter. Although in this notice Customs is specifically referring to one ruling, New York Ruling Letter (NY) 807341, dated March 17, 1995, this notice covers any rulings relating to the specific issue of the classification of a "puff" comforter set forth in NY 807341, which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. This notice will cover any rulings on this issue which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the issue subject to this notice should advise Customs during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), Customs intends to revoke any treatment previously accorded by the Customs Service to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations involving the same or similar issue, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule. Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice may raise the rebuttable presumption of lack of reasonable care on the part of the importer or its agents for importations subsequent to the effective date of the final decision on this notice.

In NY 807341, "Attachment B" to this document, the classification of a "puff" comforter composed of small stuffed squares of fabric which have been combined into an unfinished comforter was determined to be

classifiable under the provision for other textile articles not elsewhere provided for, in subheading 6307.90.9989, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). A review of that ruling has revealed that the classification is in error. The goods in question should have been classified in subheading 9404.90.8020, HTSUSA, which provides for bedding, stuffed or internally fitted with any material.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to revoke NY 807341, and any other ruling not specifically identified on identical or substantially similar merchandise to reflect the proper classification of the subject comforter pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 962266 ("Attachment A" to this document). Additionally, pursuant to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical merchandise. Before taking this action, consideration will be given to any written comments timely received.

Dated: April 1, 1999.

JOHN E. ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, March 17, 1995.

CLA–2–63:S:N:N6:345 807341
Category: Classification
Tariff No. 6307.90.9989

MR. JONATHAN M. FEE
GRUNFELD, DESIDERIO, LEBOWITZ & SILVERMAN
1201 West Peachtree Street, N.E. Suite 4860
Atlanta, GA 30309

Re: The tariff classification of a comforter top from China.

DEAR MR. FEE:

In your letter dated February 21, 1995, on behalf of Quilt Gallery, Inc., you requested a tariff classification ruling.

The sample submitted is an unfinished "Puff" comforter top. It is made in China from 100 percent cotton printed woven fabric of United States origin and woven fabric of China origin. The fabrics are cut into small squares. The woven fabric squares of China origin is sewn to the back of printed woven fabric squares of United States origin to form a pocket or envelope, which is filled with polyester fiber to give the assembled squares a "puffed" appearance. The puffed squares are then sewn together to form a patchwork article. After importation into the United States the article is finished by attaching a backing and filling creating a comforter. The sample is being returned as requested.

The applicable subheading for the comforter top will be 6307.90.9989, Harmonized Tariff Schedule of the United States (HTS), which provides for other made up articles * * * Other: Other, other. The rate of duty will be 7 percent ad valorem.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA–2 RR:CR:TE 962266 MBG
Category: Classification
Tariff No. 9404.90.8020

JONATHAN M. FEE, ESQUIRE
GRUNFELD, DESIDERIO, LEBOWITZ & SILVERMAN
1201 West Peachtree Street, N.E., Suite 4860
Atlanta, GA 30309

Re: Revocation of NY Ruling 807341; Tariff classification of an unfinished "puff" comforter.

DEAR MR. FEE:

On March 17, 1995, Customs issued New York Ruling Letter (NY) 807341 to your firm on behalf of Quilt Gallery, Inc., regarding the tariff classification of an unfinished "puff" comforter from China. The product was classified under subheading 6307.90.9989 of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), which is a residual provision for other made up textile articles not provided for elsewhere in the tariff. We have had occasion to review that ruling and have found it in error. Accordingly, this ruling revokes NY 807341 and determines the proper classification of the quilts in question.

Facts:

The merchandise under reconsideration is an unfinished comforter. It is made in China from 100 percent cotton printed woven fabric of United States origin and woven fabric of China origin. The fabrics are cut into small squares. The woven fabric squares of China origin are sewn to the back of printed woven fabric squares of United States origin to form a pocket or envelope, which is filled with polyester fiber to give the assembled squares a "puffed" appearance. The puffed squares are then sewn together to form a patchwork article. After importation into the United States the article is finished by attaching a backing and inserting a filling between the puff top and the backing.

Issue:

Whether the unfinished "puff" comforter is properly classified under heading 6307, HTSUSA, as an other made up textile article, or under heading 9404, HTSUSA, as an article of bedding?

Law and Analysis:

Classification under the HTSUSA is made in accordance with the General Rules of Interpretation (GRI). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. The Explanatory Notes (EN) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUSA by offering guidance in understanding the scope of the headings and GRIs.

Heading 9404, HTSUSA, provides for, among other things, articles of bedding and similar furnishings, provided that such articles are fitted with springs or stuffed or internally fitted with any material. There is no provision in the nomenclature or in the Explanatory Notes to the Harmonized Commodity Description and Coding System (EN) to heading 9404, HTSUSA, that requires articles classifiable under heading 9404, HTSUSA, to be of a size to fully cover a bed. However, Customs view is that implicit in an article being considered "bedding" is a practicability requirement—the article should be capable of serving the primary function of covering a bed sufficiently to make such use practical.

Heading 9404, HTSUSA, explicitly states that for an article of bedding to be classified therein, the article must be stuffed or internally fitted. The subject puff comforter is comprised of fabric squares that have pockets which have been filled with polyester fiber to give the assembled squares a "puffed" appearance. The pockets are considered stuffed and, thus, the imported good is within the plain meaning of "stuffed or fitted" as those words are used in heading 9404.

The subject merchandise in its imported condition is not "finished". It will be completed after importation into the United States by the addition of a backing and the inserting of additional padding. General Rule of Interpretation 2 (a), HTSUSA, provides that any reference in a heading shall be taken to include a reference to that article incomplete or unfinished if the article has the essential character of the complete or finished article. In Customs view, the unfinished puff comforter (without the backing and additional padding) clearly does have the essential character of the comforter.

Holding:

Accordingly, NY 807341 is revoked. The subject unfinished comforter is classifiable in subheading 9404.90.8020 HTSUSA, which provides for other stuffed articles of bedding. The 1999 rate of duty applicable to goods of China classifiable in that tariff provision is 4.7 percent *ad valorem* and the applicable textile restraint category is 362.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories applicable to textile merchandise, you should contact your local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

The designated textile and apparel category may be subdivided into parts. If so, visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report On Current Import Quotas (Restraint Levels)*, an issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

JOHN DURANT,
Director,
Commercial Rulings Division.

PROPOSED MODIFICATION AND REVOCATION OF RULING LETTERS AND TREATMENT RELATING TO TARIFF CLASSIFICATION OF ACCELERATOR AND THROTTLE CABLE ASSEMBLIES

AGENCY: U.S. Customs Service; Department of the Treasury.

ACTION: Notice of proposed modification and revocation of tariff classification ruling letters and treatment relating to classification of automobile accelerator and throttle cable assemblies.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify two rulings and revoke two rulings relating to the tariff classification, under the Harmonized Tariff Schedule of the United States (HTSUS), of accelerator and throttle cable assemblies, consisting of a flexible outer casing and a moveable inner cable, which are cut to length and equipped with end fittings. Customs intends to modify any treatment previously accorded by it to substantially identical transactions. Comments are invited on the correctness of the intended actions.

DATE: Comments must be received on or before May 21, 1999.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: General Classification Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at the same location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Andrew M. Langreich, General Classification Branch (202) 927–2318.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "**informed compliance**" and "**shared responsibility.**" These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addi-

tion, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to modify two rulings and revoke two rulings relating to the tariff classification of accelerator and throttle cable assemblies consisting of a flexible outer casing and a moveable inner cable which are cut to length and equipped with end fittings. Although in this notice Customs is specifically referring to four rulings, Headquarters Ruling Letters (HQ) 953799, 954101, 954102 and 954104, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. Customs has undertaken reasonable efforts to search existing data bases for rulings in addition to those identified. No further rulings have been found. This notice will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise Customs during this notice period. Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, Customs intends to modify and revoke any treatment previously accorded by Customs to substantially identical transactions. This treatment may, among other reasons, be the result of the importer's reliance on a ruling issued to a third party, Customs personnel applying a ruling of a third party to importations of the same or similar merchandise, or the importer's or Customs previous interpretation of the Harmonized Tariff Schedule of the United States (HTSUS). Any person involved in substantially identical transactions should advise Customs during this notice period. An importer's failure to advise Customs of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importers or their agents for importations of merchandise subsequent to this notice.

In Headquarters Ruling Letter (HQ) 953799, dated May 5, 1994, in addition to other articles not herein relevant, motorcycle choke cable and throttle cable assemblies were classified in subheading 8409.91.99, HTSUS, as other parts suitable for use solely or principally with spark-ignition internal combustion engines (including rotary engines). HQ 953799 is set forth as "Attachment A" to this document.

In HQ 954101, dated April 14, 1994, engine generator throttle cables were classified in subheading 8409.91.99, HTSUS. HQ 954101 is set forth as "Attachment B" to this document.

In HQ 954102, dated March 15, 1994, in addition to other articles not herein relevant, an engine throttle cable was classified in subheading 8409.91.99, HTSUS. HQ 954102 is set forth as "Attachment C" to this document.

In HQ 954104, dated March 10, 1994, an engine throttle cable was classified in subheading, 8409.91.99, HTSUS. HQ 954104 is set forth as "Attachment D" to this document.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89–80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Prior to 1996, the ENs to headings 7312, 8708, 8709 and 8714, HTSUS, provided a limited number of exemplars regarding the cables of heading 8708, HTSUS. At the Twelfth Session of the Harmonized System Committee (HSC) of the World Customs Organization, the ENs to these headings were amended as set forth by document 38.270 E (HSC/12/Oct. 93), dated October 29, 1993, and an exemplar was added to the ENs for the affected headings to specifically address the inclusion of accelerator cables and similar cables consisting of a flexible outer casing and a moveable inner cable cut to length and equipped with end fittings. The amendment became effective in 1996. Based upon the amendment of the ENs, and the evinced intent of the HSC to include accelerator cables within the headings 8708, 8709 and 8714 we believe that a modification of Customs position in the subject rulings is mandated.

The determination has been made that this merchandise, as it pertains to motor vehicles, shall be classified in subheading 8708.99.80, HTSUS, which provides for other parts and accessories of the motor vehicles of headings 8701 to 8705, which by virtue of EN 87.08(O) includes automobile cables consisting of a flexible outer casing and a moveable inner cable which are cut to length and equipped with end fitting.

Similarly, accelerator and throttle cable assemblies which are made solely or principally for articles classifiable in other headings, i.e., works trucks of heading 8709, motorcycles parts of heading 8714.19, will be classified using a similar analysis.

Customs, pursuant to 19 U.S.C. 1625(c)(1), intends to modify HQs 953799 and 954102 and to revoke HQs 954101 and 954104, and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis set forth in Proposed HQ 962586 (*see* "Attachment E" to this document). Additionally, pursuant

to 19 U.S.C. 1625(c)(2), Customs intends to revoke any treatment previously accorded by Customs to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: April 2, 1999.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, May 5, 1994.

CLA–2:CO:R:C:M 953799 JAS
Category: Classification
Tariff No. 8409.91.99, 8511.90.60, and 8714.19.00

MR. DENNIS HECK
TOWER GROUP INTERNATIONAL, INC.
5420 West 104th. St.
Los Angelos, CA 90045–6069

Re: Motorcycle cables; brake cable, choke cable, clutch cable, head lamp adjustment cable, side stand switch cable, speedometer cable, tachometer cable, starter cable, throttle-cable; stranded wires and cables, Heading 7312; Section XVI, Note 1(l); HSC Document 37.700 Annex G/14; *HQ* 953111; *HQ* 954102 Modified.

DEAR MR. HECK:

In your letter of March 25, 1993, on behalf of Kawasaki Motors Corp., you inquire as to the tariff classification of certain control cables from Japan for use on non-electric motorcycles. Drawings were submitted.

Facts:

The articles in issue are brake cables, choke cables, clutch cables, head lamp adjustment cables, starter cables, side stand switch cables, opening throttle cables and closing throttle cables. There are various types of each cable, all of which are push-pull types, of stranded wire, some of carbon steel, with fittings at one or both ends. In addition, there are also speedometer and tachometer cables which, unlike the others, are flexible rotating wires encased in a protective metal casing. They transmit rotary motion of the wheels to a gear mechanism inside the speedometer or tachometer where it appears on an analog readout. The drawings suggest these cables are suitable for use principally with motorcycles.

You cite *HQ* 953111 as authority for classifying these cables in subheading 8714.19.00, Harmonized Tariff Schedule of the United States (HTSUS), as other parts and accessories of motorcycles of heading 8711. A previous ruling to you, *HQ* 954102, dated March 15, 1994, held, in part, that cables for speedometers on Kawasaki's non-electric utility vehicle, the Mule, were classifiable in subheading 9029.90.80, HTSUS, as other parts of speedometers.

The provisions under consideration are as follows:

7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:
	Ropes, cables and cordage other than stranded wire:
7312.10.50	Of stainless steel fitted with fittings or made up into articles * * * 5.7 percent

* * * * * * *	
7312.10.70	Other, fitted with fittings or made up into articles * * * 5.7 percent
* * * * * * *	
8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408:
8409.91.99	Other * * * 3.1 percent
* * * * * * *	
8511	Electrical ignition or starting equipment of a kind used for spark-ignition or compression-ignition internal combustion engines; parts:
8511.90	Parts:
8511.90.60	Other parts * * * 3.1 percent
* * * * * * *	
8714	Parts and accessories of vehicles of headings 8711 to 8713:
8714.19.00	Of motorcycles: Other * * * 4.2 percent

Issue:

Whether these cables, or any of them, are articles of heading 7312; whether they have assumed the character of articles of other headings.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description And Coding System Explanatory Notes (ENs) constitute the Customs Cooperation Council's official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the notes should always be consulted. *See* T.D. 89–80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Relevant ENs, at p. 1023, state that heading 73.12 includes the named articles, whether or not covered with textiles, plastics, etc., and whether or not they are cut to length, or fitted with hooks, spring hooks, swivels, rings, thimbles, clips, sprockets, etc., *provided* they do not thereby assume the character of articles of other headings. *HQ* 953111, dated January 4, 1993, which you cite, referenced and is in harmony with a classification opinion rendered by the Harmonized System Committee (HSC), which holds, in part, that automotive hand-brake cables similar in configuration to the ones in issue here, are to be classified in subheading 8708.39, HTSUS, because they had assumed the character of goods of that heading.

Under the principles of HQ 953111, the choke cables and throttle cables for gas engine carburetors are considered parts of spark-ignition engines of heading 8407. They are classifiable in heading 8409 as parts of such engines.

The starter cables are principally used with electrical ignition or starting equipment of a kind used for spark-ignition internal combustion engines. Therefore, they are considered parts of heading 8511.

Because of their design and manner of operation, the speedometer and tachometer cables are akin to goods of heading 8483 in that they are mechanical parts for transmitting rotary motion. Such articles would ordinarily be classified in that heading. Section XVI, Note 2(a), HTSUS. However, in this case because they are designed for use solely or principally with motorcycles of section XVII, they are excluded from chapter 84. Section XVI, Note 1(l), HTSUS. The brake cables, clutch cables, head lamp adjustment cables, and side stand switch cables are goods of heading 8714 because they are parts principally used with motorcycles of heading 8711.

Holding:

Under the authority of GRI 1, the choke cables and throttle cables are provided for in heading 8409. They are classifiable in subheading 8409.91.99, HTSUS.

The starter cables are provided for in heading 8511. They are classifiable in subheading 8511.90.60, HTSUS.

The brake cables, clutch cables, head lamp adjustment cables, side stand switch cables, speedometer cables and tachometer cables are provided for in heading 8714. They are classifiable in subheading 8714.19.00, HTSUS.

Effect on Other Rulings:

Under the authority of section 177.9(d)(1), Customs Regulations, *HQ* 954102, dated March 15, 1994, is modified with respect to the speedometer cables.

MARVIN M. AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, April 14, 1994.

CLA–2:CO:R:C:M 954101 JAS
Category: Classification
Tariff No. 8409.91.99

MR. DENNIS HECK
TOWER GROUP INTERNATIONAL, INC.
5420 West 104th. St.
Los Angeles, CA 90045–6069

Re: Throttle Control Cable, Engine Throttle Cable; Cable for Throttling Fuel in Carburetor of Engine in Electric Generating Set; Stranded Wire, Ropes and Cables, Heading 7312; HSC Document 37.700 Annex G/14; *HQ* 953111, *HQ* 954102, *HQ* 954104.

DEAR MR. HECK:

In your letter of March 25, 1993, on behalf of Kawasaki Motors Corp., you inquire as to the tariff classification of generator throttle cables from Japan. Drawings were submitted.

Facts:

The article in question, designated part no. 54012–2472, consists of stranded steel wires that slide inside a hard rubber sleeve, with fittings at both ends. It is a cable that regulates a mechanism which controls the amount of fuel entering the carburetor of a spark-ignition internal combustion piston engine. This engine powers the generator portion of an electric generating set which functions to generate electricity. One end of the cable is attached to the fuel regulating mechanism and the other to a solenoid that reacts to an automatic voltage regulator.

Based on a recent Headquarters ruling, you propose classification as parts of generators, in subheading 8503.00.60, Harmonized Tariff Schedule of the United States (HTSUS).

The provisions under consideration are as follows:

7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:
	Ropes, cables and cordage other than stranded wire:
7312.10.50	Of stainless steel fitted with fittings or made into articles * * * 5.7 percent
* * * * * * *	
7312.10.70	Other, fitted with fittings or made up into articles * * * 5.7 percent
* * * * * * *	
8409	Parts suitable for use solely or principally with the engines of headings 8407 or 8408:
	Other: Suitable for use solely or principally with spark-ignition internal combustion piston engines:
8409.91.99	Other * * * 3.1 percent

*	*	*	*	*	*	*	

8503.00	Parts suitable for use solely or principally with the machines of heading 8501 or 8502:
8503.00.75	For motors of under 18.65 W * * * 10 percent
8503.00.85	Other * * * 3 percent

Issue:

Whether throttle control cables are parts of goods of heading 8502 or heading 8409.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in relevant part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.

HQ 953111, dated January 4, 1993, which you cite, held that certain automotive control cables, similar in construction to the ones here, were classifiable in heading 8708 as other parts and accessories of motor vehicles. *HQ* 953111 cited and relied on a recent decision on control cables issued by the Harmonized System Committee at its 10th. Session. This decision, Document 37.700 Annex G/14, held that certain control cables, by virtue of their specific length and thickness and special fittings which allowed them to be used solely in vehicles, had assumed the character of articles of heading 8708. Relevant Explanatory Notes, at p. 1023, exclude from heading 73.12 ropes, cables and the like that have assumed the character of articles of other headings.

Under the principles of *HQ* 953111, we consider the engine throttle cables in issue to be parts for tariff purposes, ones that are suitable for use solely or principally with spark–ignition engines of heading 8409. *HQ* 954102 and *HQ* 954104, issued to you on similar cables, are in accord.

Holding:

Under the authority of GRI 1, engine throttle cable part no. 54012–2472, is provided for in heading 8409. It is classifiable in subheading 8409.91.99, HTSUS.

MARVIN M. AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT C]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, March 15, 1994.

CLA–2:CO:R:C:M 954102 JAS
Category: Classification
Tariff No. 8409.91.99, 8709.90.00, and 9029.90.80

MR. DENNIS HECK
CASTELAZO & ASSOCIATES
5420 West 104th. Street
Los Angeles, CA 90045–6069

Re: Control Cables for Non-Electric Utility Vehicle; Throttle Cable, Parking Brake Cable, Speedometer Cable; Stranded Wire, Ropes and Cable, Heading 7312; *HQ* 953111, *HQ* 954104, *HQ* 954173.

DEAR MR. HECK:

In a letter dated March 25, 1993, on behalf of Kawasaki Motor Corp., you inquire as to the tariff status of certain cables used on their non-electric utility (Mule) vehicle.

Your inquiry mentions a number of cables used in various applications on the 2 wheel and 4 wheel drive models. However, only drawings and samples of the front parking brake cable,

part # 54005–1142, engine throttle cable, part # 54012–1338, and speedometer cable, part # 54001–1151, accompanied your letter. This ruling is therefore limited to these articles. The tariff status of other Kawasaki cables are the subject of individual ruling requests which we will respond to individually.

You cite *HQ* 953111, dated January 4, 1993, on similar merchandise and conclude that cables represented by the submitted samples are provided for as parts of heading 8704 vehicles. As such, you believe they are classifiable in subheading 8708.99.50, Harmonized Tariff Schedule of the United States (HTSUS).

Facts:

Part #54005–1142 is approximately 11 inches long and consists of stranded steel wires encased in hard rubber. One end of the cable has a metal fitting threaded 1½ inch from the end that accommodates two (2) nuts. The other end has a 2¾ inch long claw-like device attached perpendicular to the wire. Part # 54012–1338 is approximately 6½ ft. long and consists of stranded steel wires encased in hard rubber. One end has a threaded fitting with nuts similar to the first sample, but with a accordion-like rubber piece with metal ferrule to keep it in place. The other end is identical but with a soft rubber sleeve about 1 ft. from the end and without the rubber piece. Part #54001–1151 is nearly 5 ft. long and consists of stranded steel wires inside a metal sleeve encased in hard rubber. There is a metal fitting at each end over which a threaded metal end piece slides for attaching the cable to another article.

The provisions under consideration are as follows:

7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:
	Ropes, cables and cordage other than stranded wire:
7312.10.50	Of stainless steel fitted with fittings or made up into articles * * * 5.7 percent
*	* * * * * * *
7312.10.70	Other, fitted with fittings or made up into articles * * * 5.7 percent
*	* * * * * * *
8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408:
8409.91.99	Other * * * 3.1 percent
*	* * * * * * *
8709	Works trucks, self-propelled, of the type used in factories, warehouses, dock areas, or airports for short distance transport of goods;
8709.90.00	Parts [of the foregoing vehicles] * * * Free
*	* * * * * * *
9029	Speedometers and tachometers:
9029.90	Parts and accessories:
9029.90.80	Other * * * Free

Issue:

Whether the control cables in issue are articles of heading 7312; if not, whether by virtue of their special construction they have assumed the character of articles of other headings.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

As a preliminary issue, the Mule utility vehicle is a battery powered 4-wheel vehicle with open cab that houses the driver and one passenger, and has either an 11.3 or 13.3 cu. ft. open cargo bed in the rear. In *HQ* 954173, dated September 22, 1993, to you, we held that this vehicle is a works truck of heading 8709.

For purposes of heading 8709, the expressions *"parts"* and *"parts and accessories"* do not apply to parts of general use, as defined in the legal notes to section XV. Section XVII, Note 2(b), HTSUS. Parts of general use are precluded from chapter 84. Section XVI, Note 1(g), HTSUS. They are also precluded from chapter 90. Chapter 90, Note 1(f), HTSUS.

Throughout the tariff schedule, the expression *"parts of general use"* includes articles of heading 7312, among others. Section XV, Note 2(a), HTSUS. Therefore, if the cables in issue are articles of heading 7312, they are parts of general use and cannot be classified in heading 8708, or in any of the other cited provisions.

Relevant Harmonized Commodity Description and Coding System Explanatory Notes (ENs), at p. 1023, state in part that heading 73.12 includes the named articles, whether or not covered with textiles, plastics, etc., and whether or not they are cut to length, or fitted with hooks, spring hooks, swivels, rings, thimbles, clips, sprockets, etc., *provided* they do not thereby assume the character of articles of other headings.

We have recently ruled that control cables similar to the parking brake cable here, by virtue of their specific length and thickness and their special end terminations which dedicate them for use in vehicles of headings 8701 through 8705, have assumed the character of articles of heading 8708; such cables, therefore, are not provided for as *"parts of general use"* in Section XV, and are not goods of heading 7312. *HQ* 953111, dated January 4, 1993. This ruling referenced and is in harmony with a classification opinion rendered by the Harmonized System Committee (HSC) which holds, in part, that automotive brake cables similar in construction to the ones in issue here are to be classified in subheading 8708.39, HTSUS. A more recent ruling to you, *HQ* 954104, dated March 10, 1994, employed the same rationale in holding that certain throttle control cables were classifiable in subheading 8409.91.99, HTSUS, as other parts suitable for use solely or principally with spark-ignition internal combustion piston engines.

Holding:

Noting the rationale of the cited rulings, and the authority of GRI 1, the front parking brake cable designated part #54005–1442, is provided for in heading 8709. It is classifiable in subheading 8709.90.00, HTSUS; the throttle cable designated part # 54012–1338 is provided for in heading 8409. It is classifiable in subheading 8409.91.99, HTSUS; and, the speedometer cable designated part # 54001–1151 is provided for in heading 9029. It is classifiable in subheading 9029.90.80, HTSUS.

MARVIN M. AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT D]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, March 10, 1994.

CLA–2:CO:R:C:M 954104 JAS
Category: Classification
Tariff No. 8409.91.99

MR. DENNIS HECK
TOWER GROUP INTERNATIONAL, INC.
5420 West 104th. St.
Los Angeles, CA 90045–6069

Re: Throttle Control Cable, Engine Throttle Cable; Cable for Throttling Fuel in Carburetor of a Motorcycle Engine; Stranded Wire, Ropes and Cables, Heading 7312; HSC Document 37.700 Annex G/14, *HQ* 953111.

DEAR MR. HECK:

In your letter of March 25, 1993, on behalf of Kawasaki Motors Corp., you inquire as to the tariff classification of an engine throttle cable from Japan. Drawings and a sample were submitted.

Facts:

The article in question, designated part no. 54012–2507, is a cable that regulates a mechanism which controls the amount of fuel entering the carburetor of a 22.6 cc, 0.8 hp. spark-

ignition internal combustion piston-type engine. The sample cable is an article consisting of stranded steel wires that slides inside a hard rubber sleeve. The sleeve is articulated, that is, a threaded metal piece in the center allows the cable to bend. Both ends of the cable have enlarged metal ferrules to keep the cable in the sleeve. At one end there is a curved metal sleeve that is threaded and has a nut.

Based on a recent Headquarters ruling, you propose classification under the provision for other parts of engines, in subheading 8409.91.99, Harmonized Tariff Schedule of the United States (HTSUS).

The provisions under consideration are as follows:

7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, notelectrically insulated: Ropes, cables and cordage other than strandedwire:
7312.10.50	Of stainless steel fitted with fittings or made upinto articles * * * 5.7 percent
* * * * * * * *	
7312.10.70	Other, fitted with fittings or made up intoarticles * * * 5.7 percent
* * * * * * * *	
8409	Parts suitable for use solely or principally with the engines of headings 8407 or 8408: Other: Suitable for use solely or principally with spark-ignition internal combustion pistonengines:
8409.91.99	Other * * * 3.1 percent

Issue:

Whether throttle control cables are parts of heading 8409.

Law and Analysis:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in relevant part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes.

HQ 953111, dated January 4, 1993, which you cite, held that certain automotive control cables, similar in construction to the ones here, were classifiable in heading 8708 as other parts and accessories of motor vehicles. *HQ* 953111 cited and relied on a recent decision on control cables issued by the Harmonized System Committee at its 10th. Session. This decision, Document 37.700 Annex G/14, held that certain control cables, by virtue of their specific length and thickness and special fittings which allowed them to be used solely in vehicles, had assumed the character of articles of heading 8708. Relevant Explanatory Notes, at p. 1023, exclude from heading 73.12 ropes, cables and the like that have assumed the character of articles of other headings.

Under the principles of *HQ* 953111, we consider the engine throttle cables in issue to be parts for tariff purposes, ones that are suitable for use solely or principally with spark-ignition engines of heading 8409.

Holding:

Under the authority of GRI 1, engine throttle cable part no. 54012–2507 is provided for in heading 8409. It is classifiable in subheading 8409.91.99, HTSUS.

MARVIN M. AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[ATTACHMENT E]

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA-2:RR:CR:GC 962586 AML
Category: Classification
Tariff Nos. 7312.10, 8709.90, and 8714.19

MR. DENNIS HECK
TOWER GROUP INTERNATIONAL, INC.
5420 West 104th Street
Los Angeles, CA 90045-6069

Re: HQs 953799, 954101, 954102 and 954104 modified or revoked; accelerator or throttle cable assemblies for use with internal combustion piston engines.

DEAR MR. HECK:

In Headquarters ruling letter (HQ) 953799, issued to you on May 5, 1994, on behalf of Kawasaki Motors Corp., in addition to other articles not relevant herein, throttle and choke cables for use with internal combustion piston engines for motorcycles were separately classified in subheading 8409.91.99, Harmonized Tariff Schedule of the United States (HTSUS), as other parts suitable for use solely or principally with spark-ignition, internal combustion piston engines.

In HQ 954101, issued to you on April 14, 1994, Kawasaki part # 54012-2472, a throttle cable for use with the internal combustion engine of a generating set, was classified in subheading 8409.91.99, HTSUS.

In HQ 954102, issued to you on March 15, 1994, in addition to other articles not relevant herein, Kawasaki part # 54012-1338, an engine throttle cable for a utility vehicle, was classified in subheading 8409.91.99, HTSUS.

In HQ 954104, dated March 10, 1994, Kawasaki part # 54012-2507, an engine throttle cable for use in a motorcycle, was classified in subheading, 8409.91.99, HTSUS.

We have reconsidered these rulings and for the reasons set forth in this decision have determined that the classifications provided in two of those rulings should be modified and the others should be revoked.

Facts:

The relevant articles in HQ 953799 are described as follows:

> The articles are throttle cables and choke cables. There are various types of each cable, all of which are push-pull types, of stranded wire, some of carbon steel, with fittings at one or both ends. * * * The drawings suggest these cables are suitable for use principally with motorcycles.

The article in HQ 954101 was described as follows:

> The article, designated Kawasaki part # 54012-2472, consists of stranded steel wires that slide inside a hard rubber sleeve with fittings at both ends. It is a cable that regulates a mechanism which controls the amount of fuel entering the carburetor of a spark-ignition internal combustion piston-type engine. This engine powers the generator portion of an electric generator set which functions to generate electricity. One end of the cable is attached to the fuel regulating mechanism and the other to a solenoid that reacts to an automatic voltage regulator.

The relevant article in HQ 954102 was described as follows:

> The engine throttle cable, designated Kawasaki part # 54012-1338, is approximately 6½ feet long and consists of stranded steel wires encased in hard rubber. One end has a threaded fitting with nuts * * * [and an] accordion-like rubber piece with a metal ferrule to keep it in place. The other end is identical but with a soft rubber sleeve about one foot from the end.

The article in HQ 954104 was described as follows:

> The article, designated Kawasaki part # 54012-2507, is a cable that regulates a mechanism which controls the amount of fuel entering the carburetor of a 22.6 cc, 0.8 hp., spark-ignition internal combustion piston-type engine. [It] consists of stranded steel wires that slide inside a hard rubber sleeve * * * Both ends of the cable have enlarged metal ferrules to keep the cable in the sleeve.

Issue:

Whether these cables are classified as stranded wire, ropes, cables of iron or steel, not electrically insulated, other, fitted with fittings or made up into articles of heading 7312, HTSUS, or whether they have assumed the character of articles of other headings?

Law and Analysis:

Classification of imported merchandise is accomplished pursuant to the Harmonized Tariff Schedule of the United States (HTSUS). Classification under the HTSUS is guided by the General Rules of Interpretation of the Harmonized System (GRI's). GRI 1 states in part that "for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes[.]" The headings under consideration are as follows:

7312	Stranded wire, ropes, cables, plaited bands, slings and the like, of iron or steel, not electrically insulated:
	Ropes, cables and cordage other than stranded wire:
7312.10.50	Of stainless steel fitted with fittings or made up into articles
7312.10.70	Other, fitted with fittings or made up into articles
*	* * * * * * *
8409	Parts suitable for use solely or principally with the engines of heading 8407 or 8408:
	Other:
8409.91.99	Other.
*	* * * * * * *
8709	Works trucks * * *; parts:
8709.90.00	Parts.
*	* * * * * * *
8714	Parts and accessories of vehicles of headings 8711 to 8713:
8714.19.00	Of motorcycles: other.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System. While not legally binding on the contracting parties, and therefore not dispositive, the ENs provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the System. Customs believes the ENs should always be consulted. See T.D. 89–80. 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Section XV, Note 2 states as follows:

> 2. Throughout the tariff schedule, the expression "parts of general use" means:
>
> (a) Articles of heading 7307, 7312, 7315, 7317 or 7318 and similar articles of other base metals;

EN 73.12 provides in pertinent part, as follows:

> The heading covers stranded wire (or wire strand) obtained by closely twisting together two or more single wires, and cables and ropes of all sizes which are in turn formed by twisting such strands together. Provided they remain essentially articles of iron or steel wire, ropes and cables may be laid on textile cores (hemp, jute, etc.) or covered with textiles, plastics, etc.
>
> The heading includes such ropes, cables, bands, etc., whether or not they are cut to length, or fitted with hooks, spring hooks, swivels, rings, thimbles, clips, sockets, etc. (provided that they do not thereby assume the character of articles of other headings), or made up into single or multiple slings, strops, etc.
>
> The heading **does not include:**
>
> (c) Brake cables, accelerator cables and similar cables suitable for use in motor vehicles of Chapter 87 (emphasis added).

Section Note XVI, provides in pertinent part, as follows:

> 1. This section does not cover:
>
> * * * * * * *
>
> (g) Parts of general use, as defined in note 2 to section XV, of base metal (section XV), or similar goods of plastics (chapter 39);
>
> * * * * * * *
>
> (l) Articles of section XVII;

2. Subject to note 1 to this section, note 1 to chapter 84 and to note 1 to chapter 85, parts of machines (not being parts of the articles of heading 8484, 8544, 8545, 8546 or 8547) are to be classified according to the following rules:

(a) Parts which are goods included in any of the headings of chapters 84 and 85 (other than headings 8409, 8431, 8448, 8466, 8473, 8485, 8503, 8522, 8529, 8538 and 8548) are in all cases to be classified in their respective headings;

(b) Other parts, if suitable for use solely or principally with a particular kind of machine, or with a number of machines of the same heading (including a machine of heading 8479 or 8543) are to be classified with the machines of that kind or in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate. However, parts which are equally suitable for use principally with the goods of headings 8517 and 8525 to 8528 are to be classified in heading 8517;

(c) All other parts are to be classified in heading 8409, 8431, 8448, 8466, 8473, 8503, 8522, 8529 or 8538 as appropriate or, failing that, in heading 8485 or 8548.

Section Note XVII provides, in pertinent part, as follows:

2. The expressions "parts" and "parts and accessories" do not apply to the following articles, whether or not they are identifiable as for the goods of this section:

* * * * * * *

(b) Parts of general use, as defined in note 2 to section XV, of base metal (section XV) or similar goods of plastics (chapter 39);

* * * * * * *

(e) Machines or apparatus of headings 8401 to 8479, or parts thereof; articles of heading 8481 or 8482 or, provided they constitute integral parts of engines or motors, articles of heading 8483[.]

EN 87.09 provides in pertinent part:

This heading also covers parts of the vehicles specified in the heading, provided the parts fulfil both the following conditions:

(i) They must be identifiable as being suitable for use solely or principally with such vehicles; and

(ii) They must not be excluded from this heading by the provisions of the Notes to Section XVII (see the corresponding General Explanatory Note).

* * * * * * *

Parts of this heading include:

(9) Clutch cables, brake cables, accelerator cables and similar cables, consisting of a flexible outer casing and a moveable inner cable. They are presented cut to length and equipped with end fittings.

Similar, inclusive language can be found in the exemplars listed in ENs 87.08, specifically EN 87.08 (O), which provides for parts and accessories for the motor vehicles of headings 8701 to 8405, and in the ENs for heading 8414, specifically 84.14 (25), which provides for parts and accessories for the vehicles of headings 8711 to 8713.

Prior to 1996, the ENs to headings 7312, 8708, 8709 and 8714, HTSUS, provided a limited number of exemplars regarding the cables of heading 8708, HTSUS. At the Twelfth Session of the Harmonized System Committee (HSC) of the World Customs Organization, the ENs to these headings were amended as set forth by document 38.270 E (HSC/12/Oct. 93), dated October 29, 1993, and an exemplar was added to the ENs for the affected headings to specifically address the inclusion of accelerator cables and similar cables consisting of a flexible outer casing and a moveable inner cable presented cut to length and equipped with end fittings. The amendment became effective in 1996. Based upon the amendment of the ENs, and the evinced intent of the HSC to include accelerator cables within headings 8708, 8709 and 8714 we believe that a change of Customs position in the subject rulings is mandated.

It has been held that a part of an article is something that is an integral, constituent or component part necessary to the completion of the article with which it is used. *See United States v. Willoughby Camera Stores, Inc., 21 CCPA 322 (1933), Bauerhin Technologies Ltd., et al. v. United States, Slip Op. 95-206 (Ct. Int'l Trade, decided December 26, 1995), aff'd. Slip Op. 96-1275 (Fed. Cir., decided April 2, 1997),* and related cases. These decisions focus on the nature and function of the imported part as it was placed in use with another article. It must be determined whether the cables at issue are integral, constituent or component parts necessary to the completion of a good. The subject HQ rulings merely asserted that

the cables were parts of internal combustion piston engines but did not, in fact, examine this in any detail. Such an examination is necessary at this time in light of the amended ENs.

The throttle and accelerator cable assemblies are not essential parts of an internal combustion piston engine. Structurally, as well as for Customs purposes, an internal combustion piston engine is complete and whole without the cables in question. The cables are not constituent component parts without which the engine would be incomplete. The cable assemblies enable an operator to increase the fuel utilized by the engine, thereby making a vehicle or other entity which is dependent upon an engine for its operation able to perform to its expected capacity.

The ENs for headings 7312, 8708, 8709, and 8414 sustain this position. The ENs provide that accelerator cables or similar cables, which are suitable for use in motor vehicles, are to be classified in Chapter 87 as parts of motor vehicles and not as parts of the internal combustion piston engines in heading 8409. If the accelerator or similar-type cables were, in fact, integral, constituent or component parts of engines, Section XVI Note 2 (b), in concert with Section XVII Note 2(e), would compel their classification in heading 8409.

In conformity with the cited ENs, the throttle and choke cables of HQ 953799 and HQ 954104, which by virtue of having been cut to length and fitted with end fittings dedicating them to sole or principal use with the motorcycles of heading 8711, are classified in subheading 8714.19.00, HTSUS, which provides for other parts of motorcycles.

Also in conformity with the cited ENs, the engine throttle cable of HQ 954102, which by virtue of having been cut to length and fitted with end fittings dedicating them to sole or principal use with a works truck of heading 8709, is classified in subheading 8709.90.00, HTSUS, which provides for parts of such a vehicle.

Neither the foregoing discussion of engine parts nor the record for HQ 954101 compels a finding that the engine throttle cable employed with an internal combustion piston engine used to power the generator portion of an electric generating set is an integral, constituent or component part of the engine or generating set. The cable has not been shown to assume the character of an article of another heading and thus remains classified in heading 7312. Section XVI, Note 1 (g) and the ENs to heading 7312 followed.

HQ 953111, dated January 4, 1993, referenced a classification opinion rendered by the Harmonized System Committee (HSC), which holds, in part, that automotive hand brake cables are to be classified in subheading 8708.39, because they had assumed the character of goods of that heading. The rationale of HQ 953111 was used to classify the goods specified in the subject Headquarters rulings, to wit, that the cables of those rulings had assumed the character of articles of other headings.

Holding:

The motorcycle throttle cables, consisting of a flexible outer casing and movable inner cable, cut to length and equipped with end fittings, are classifiable under subheading 8714.19.00, HTSUS, as other parts and accessories of the motor vehicles of headings 8711 to 8713.

The works truck throttle cable, consisting of a flexible outer casing and movable inner cable, cut to length and equipped with end fittings, is classifiable in subheading 8709.90.00, HTSUS, as parts of a works truck.

The throttle cable for use with an engine of a generating set, if of stainless steel, is classifiable in subheading 7312.10.50, HTSUS, as ropes, cables and cordage other than stranded wire: of stainless steel fitted with fittings or made up into articles; if of other than stainless steel, these cables are classifiable in subheading 7312.10.70, HTSUS, as ropes, cables and cordage other than stranded wire: other, fitted with fittings or made up into articles.

Effect on Other Rulings:

HQs 953799 and 954102 are modified as they pertain to the accelerator or throttle cable assemblies, and HQs 954101 and 954104 are revoked.

JOHN DURANT,
Director,
Commercial Rulings Division.

MODIFICATION OF CUSTOMS RULING LETTER RELATING TO THE COUNTRY OF ORIGIN DETERMINATION OF BRAIDED CORD

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of modification of ruling letter concerning the country of origin of braided cord.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs is modifying a ruling pertaining to the country of origin of braided cord produced from man-made fiber filament yarns extruded in Canada and further processed in Macau.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after June 22, 1999.

FOR FURTHER INFORMATION: Phil Robins, Textile Branch, Office of Regulations and Rulings, 202–927–1031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many section of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **"informed compliance"** and **"shared responsibility."** These concepts are premised on the idea that in order to maximize voluntary compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on Customs to provide the public with improved information concerning the trade community's responsibilities and rights under the Customs and related laws. In addition, both the trade and Customs share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended (19 U.S.C. §1484), the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable Customs to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

New York Ruling Letter (NY) C83113, dated February 17, 1998, concerned the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) and country of origin of braided cord. The cord was made from man-made fiber filament yarn extruded in Canada and shipped to Macau to be made into braided cord. Although NY C83113, correctly concluded the applicable HTSUSA subheading for the cord is 5607.50.4000, HTSUSA, the provision for braided twine,

cordage, or ropes, Customs incorrectly determined the country of origin as Macau. It is now Customs position that the country of origin is Canada.

Because of the foregoing, notice of the proposed action was published on March 3, 1999, in the CUSTOMS BULLETIN, Volume 33, No. 8/9. Comments on the correctness of the change were requested. No comments were received.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), this notice advises interested parties that Customs is modifying NY C83113 pertaining to the country of origin of braided cord produced from man-made fiber filament yarns extruded in Canada and further processed in Macau, to state that the country of origin is Canada.

Headquarters Ruling Letter (HQ) 961984, which modifies NY C83113, is set forth as the "Attachment" to this document.

Dated: April 5, 1999.

JOHN E. ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY.
U.S. CUSTOMS SERVICE,
Washington, DC, April 5, 1999.

CLA–2 RR:CR:TE 961984 DNM
Category: Country of Origin

MR. JOSEPH HOFFACKER
BARTHCO TRADE CONSULTANTS, INC.
7575 Holstein Avenue
Philadelphia, PA 19153

Re: Reconsideration of New York Ruling Letter (NY) C83113; concerning country of origin of braided cord produced from yarn extruded in Canada.

DEAR MR. HOFFACKER:

This is in reference to NY C83113, dated February 17, 1998, issued to your company on behalf of Coghlan's Ltd., Winnipeg, Canada. The ruling held the country of origin of certain braided cord to be Macau. We have reviewed NY C83113 and have determined that the holding in NY C83113 regarding country of origin is incorrect. Accordingly, this ruling modifies that portion of NY C83113 which deals with the country of origin of the goods in question.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), notice of the proposed modification of NY C83113 was published on March 3, 1999, in the CUSTOMS BULLETIN, Volume 33, Number 8/9.

Facts:

NY C83113 ruled on the classification and country of origin of a braided cord produced from man-made fiber filament yarn that you described as 100% Fiberstock, 470 dtex, 420 denier, merge 00WV00 (DuPont® Trade Name "WVO 00") extruded in Canada and shipped

to Macau for six additional processing steps to make the yarn into braided cord. The extruded yarn is then shipped to Macau for the following six processing operations:

1. Setting the yarn—combining the yarn together to form larger denier yarn according to the required size and firmly set in uniformity on stretching and setting machine or twisting machines for twisting, if necessary.
2. Bobbining—winding by bobbin machine onto bobbins before braiding.
3. First braiding—the bobbins are put on the braiding machine to braid the center of the cord.
4. Second braiding—the required number of bobbins are put on the braiding machine to produce a braid over the center cord.
5. After quality checking, the finished braided cords are put on the reeling machine to make up the reel of the required length.
6. Labeling the reel—wrap the reel with shrinkage film by shrinkage machine and then pack into boxes and cartons.

Issue:

What is the country of origin of braided cord made from man-made fiber filament yarn extruded in Canada and shipped to Macau to be made into braided cord?

Law and Analysis:

In NY C83113, Customs correctly concluded the applicable HTSUSA subheading for the braided cord is 5607.50.4000, HTSUSA. However, Customs incorrectly determined the country of origin as Macau. On December 8, 1994, the President signed into law the Uruguay Round Agreements Act. Section 334 of that Act (codified at 19 U.S.C. 3592) provides rules of origin for textiles and apparel entered, or withdrawn from a warehouse, for consumption, on and after July 1, 1996. On September 5, 1995, Customs published Section 102.21, Customs Regulations, in the Federal Register, implementing Section 334 (60 FR 46188). Thus, effective July 1, 1996, the country of origin of a textile or apparel product shall be determined by sequential application of the general rules set forth in paragraphs (c)(1) through (5) of Section 102.21.

Section 102.21 (c)(1) states that the country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced. As the subject merchandise was not wholly obtained or produced in a single country, section (c)(1) is not applicable.

Section 102.21(c)(2) states that where the country of origin of a textile or apparel product cannot be determined under paragraph (c)(1) of this section, the country of origin of the good is the single country, territory, or insular possession in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement specified for the good in paragraph (e) of this section.

The applicable portion of section 102.21(e) states that the following rules shall apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:

> 5607 If the good is of continuous filaments, including strips, a change of those filaments, including strips, to heading 5607 from any other heading, except from heading 5001 through 5007, *5401 through 5406*, and 5501 through 5511, and provided that the change is the result of an extrusion process. (emphasis added)

The subject extruded cord, classified in heading 5607, HTSUSA underwent a change to this heading from heading 5402 through 5405, HTSUSA, the provisions for man-made fiber yarns. Headings 5402 through 5405, HTSUSA, are excluded by the terms of the tariff shift rule applicable to goods classifiable under heading 5607, HTSUSA. Therefore, section 102.21 (c)(2) is inapplicable to the subject merchandise.

Section 102.21(c)(3) provides that where the country of origin of a textile or apparel product cannot be determined under paragraphs (c)(1) or (c)(2):

> (i) If the good was knit to shape, the country of origin of the good is the single country, territory, or insular possession in which the good was knit; or
>
> (ii) Except for goods of heading 5609, 5807, 5811, 6213, 6214, 6301 through 6306, and 6308, and subheadings 6209.20.5040, 6307.10, 6307.90, and 9404.90, if the good was not knit to shape and the good was wholly assembled in a single country, territory, or insular possession, the country of origin of the good is the country, territory, or insular possession in which the good was wholly assembled.

In order to effectuate the requirements of section 334 (19 U.S.C. 3592), Customs position is that the plying or braiding of yarns, or otherwise assembling yarns to form a single yarn,

braid, cord, Mine, etc., is not an assembly process. Accordingly, since the subject goods are neither knit to shape nor assembled, those goods do not satisfy paragraph (c)(3).

Section 102.21(c)(4) states that where the country of origin of a textile or apparel product cannot be determined under paragraph (c) (1), (2) or (3), the country of origin of the good is the single country, territory, or insular possession in which the most important assembly or manufacturing process occurred.

It is Customs view, consonant with the provisions of section 334 (19 U.S.C. 3592), that the most important manufacturing process in the production of braided cords occurs at the time the continuous filaments forming those cords are extruded, which occurs in Canada.

Holding:

The country of origin is Canada.

The holding set forth above applies only to the specific factual situation and merchandise identified in the ruling request. This position is clearly set forth in section 177.9(b)(1), Customs Regulations (19 CFR 177.9(b)(1)). This section states that a ruling letter is issued on the assumption that all of the information furnished in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect.

Should it be subsequently determined that the information furnished is not complete and does not comply with 19 CFR 177.9(b)(1), the ruling will be subject to modification or revocation. In the event there is a change in the facts previously furnished, this may affect the determination of country of origin. Accordingly, if there is any change in the facts submitted to Customs, it is recommended that a new ruling request be submitted in accordance with 19 CFR 177.2.

NY C83113 dated February 17, 1998, is hereby modified. In accordance with 19 U.S.C. 1625(c)(1), this ruling will become affective 60 days after its publication in the CUSTOMS BULLETIN.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 19

RIN 1515–AC41

CUSTOMS BONDED WAREHOUSES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations regarding the filing of certain inventory reports by bonded warehouse proprietors. Instead of requiring that these reports be filed with Customs, the document proposes that bonded warehouse proprietors maintain these inventory reports after their preparation. In some instances when the inventory report is prepared a letter must be submitted to Customs certifying that the report has been prepared. As proposed to be amended, the port director would be the Customs officer to whom certification letters must be submitted and to whom the annual report covering smelting or refining operations should be submitted. These proposed changes and other changes proposed in this document are intended to simplify inventory recordkeeping procedures for warehouse proprietors and are consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act.

DATE: Comments must be received on or before June 7, 1999.

ADDRESS: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Edward Bowles, Senior Auditor, Regulatory Audit Division, (202–927–0071).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document proposes several amendments to part 19, Customs Regulations (19 CFR part 19), concerning the submission to Customs of

certain inventory reports covering merchandise in a bonded warehouse. Instead of requiring that certain reports be filed with Customs, the document proposes to amend the Customs Regulations to require that bonded warehouse proprietors maintain these inventory reports after their preparation. In certain instances, when the inventory report is prepared, a letter must be submitted to Customs certifying that the report has been prepared. As proposed to be amended, the port director would be the Customs officer to whom certification letters must be submitted and to whom the annual report covering smelting or refining operations should be submitted. These proposed changes and other changes proposed in this document are intended to simplify inventory recordkeeping procedures for warehouse proprietors and are consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182).

WAREHOUSE PROPRIETOR'S SUBMISSION

The principal change proposed in this document concerns the Warehouse Proprietor's Submission on Customs Form (CF) 300. Currently, § 19.12(g) of the Customs Regulations requires certain bonded warehouse proprietors to file annually the CF 300 with the field director of regulatory audit within 45 days from the end of the proprietor's business year. The CF 300 describes all merchandise in the beginning and ending inventory and all merchandise covered by entries opened and closed during the year which do not appear in the beginning or ending inventory.

Section 19.12(g) also provides that these proprietors may submit an alternative format concerning the inventory information required on the CF 300 if the field director of regulatory audit first gives written approval to use an alternative format.

Section 19.12(d)(3) requires, with certain exceptions, that duties and taxes applicable to any non-extraordinary shortage of, or damage to, merchandise in a warehouse be paid when the CF 300 is due, or at any time prior to the annual filing of the CF 300 or certified annual reconciliation.

This document proposes to amend § 19.12(g) to no longer require the submission of the CF 300 by these warehouse proprietors. The proposed amendment would still require these warehouse proprietors to prepare the CF 300 within 45 calendar days from the end of these proprietors' business years; but instead of requiring these proprietors to submit it to Customs within that time frame, the proposed amendment would require these proprietors to retain the document and submit to the port director within 10 days of the preparation of the CF 300 a letter certifying that the CF 300 has been prepared, is available for Customs review, and is accurate.

The document also proposes to amend § 19.12(g) to provide that these warehouse proprietors would no longer need Customs permission

in order to use an alternative format to the CF 300. Of course, under the proposed amendment, if an alternative format is used, a similar letter would need to be submitted to Customs within 10 days of the preparation of the alternate format certifying that the alternate to the CF 300 has been prepared, is available for Customs review and is accurate.

Section 19.12(d)(3) is proposed to be amended to provide that duties and taxes applicable to any non-extraordinary shortage of, or damage to, merchandise in a warehouse be reported to Customs no later than the date the letter is due to Customs certifying that the CF 300 or alternate has been prepared.

Annual Reconciliation Report

Section 19.12(h)(1) concerns the requirement of certain other warehouse proprietors to prepare an annual reconciliation report, rather than the CF 300, and establishes the date by which the report must be prepared. Section 19.12(h)(1) currently allows for these warehouse proprietors to apply to the field director of regulatory audit for an extension of time within which to prepare the report and § 19.12(h)(3) requires these proprietors to submit a letter to the field director of regulatory audit certifying that the annual reconciliation report has been prepared.

This document proposes to amend § 19.12(h)(1) to make port directors, rather than field directors of regulatory audit, responsible for approving extensions of time within which reconciliation reports must be prepared. The document proposes to amend § 19.12(h)(3) to require that the certification letter be submitted to the port director.

Smelting and Refining Warehouses

This document also proposes two changes regarding the submission of inventory reports by bonded smelting and refining warehouses. One proposed change concerns the filing of a monthly report and the other concerns the filing of an annual report.

Section 19.17(g) currently provides that where two or more smelting and refining warehouses are included under one blanket smelting and refining bond, an overall monthly statement of inventory and bond charges must be filed by the principal named in the bond with each involved Field Director, Regulatory Audit, showing the inventory at each plant covered by the bond. Furthermore, § 19.17(g) provides that each port director at whose port a plant or plants are located is responsible for determining the correctness of the inventory report covering merchandise at those plants under his jurisdiction.

As proposed to be amended by this document, § 19.17(g) would no longer require the proprietor named as principal in the bond to file the monthly statement with any Field Director, Regulatory Audit, but would instead require the proprietor to maintain the monthly statement after its preparation. In addition, § 19.17(g) would be changed to make clear, as is currently the case, that if the warehouses covered by an overall statement are located in more than one port, each port director

may choose to verify the accuracy of the inventory report only with respect to that portion of the report that relates to amounts held at a plant that is located within that port director's jurisdiction.

Section 19.19(b) currently requires that an annual report covering the smelting or refining operations conducted by each manufacturer be submitted to the Field Director, Regulatory Audit. As proposed to be amended by this document, the regulations would no longer require the annual report to be submitted to the Field Director, Regulatory Audit. Instead, the annual report would be filed with the port director.

OTHER AMENDMENTS

Section 19.12(d)(3) currently refers to the filing of the annual reconciliation when the filing of the annual reconciliation is not required. Accordingly, this document proposes to remove the reference to the filing of the annual reconciliation from that paragraph.

Also, § 19.12(d)(3) currently includes a cross-reference to paragraph (f) of that section in relation to the annual reconciliation report. However, the annual reconciliation report is dealt with in paragraph (h) of that section, not paragraph (f). Accordingly, this document proposes to replace the cross-reference to paragraph (f) in § 19.12(d)(3) with a cross-reference to paragraph (h).

COMMENTS

Before adopting the proposal, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C.

THE REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

The proposed amendments are intended to simplify inventory recordkeeping procedures for warehouse proprietors and be consistent with Customs movement toward a post-audit environment and the spirit of "shared responsibility" embodied in the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act. As such, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.),* it is hereby certified that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the proposed rule result in a "significant regulatory action" under E.O. 12866.

PAPERWORK REDUCTION ACT

The collections of information contained in this notice of proposed rulemaking have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned the following OMB control numbers: 1515–0093 for bonded warehouse proprietor's submission; 1515–0121 for information to be supplied by owner or lessee in support of application to establish a bonded warehouse facility; 1515–0127 for application by manufacturer to bond (or discontinue a previously bonded) establishment engaged in the smelting or refining of metal-bearing materials; and 1515–0135 for record of smelting or refining operation showing receipt and disposition of each shipment of material. This document restates the collections of information without substantive change.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Although this document restates the collections of information without substantive change, comments are specifically requested concerning: (a) Whether the collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) how to enhance the quality, utility, and clarity of the information to be collected; (c) how to minimize the burden of complying with the collections of information, including through the application of automated collection techniques or other forms of information technology; and (d) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments concerning suggestions for reducing the burden of the collections of information should be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, D.C. 20229. A copy should also be sent to U.S. Customs Service, Information Services Group, Attention: J. Edgar Nichols, Room 3.2–C, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Comments should be submitted within the same time frame that comments are due regarding the substance of the proposal.

LIST OF SUBJECTS IN 19 CFR PART 19

Customs duties and inspection, Exports, Freight, Imports, Reporting and recordkeeping requirements, Warehouses.

PROPOSED AMENDMENTS TO THE REGULATIONS

It is proposed to amend part 19, Customs Regulations (19 CFR part 19), as set forth below.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

1. The general authority citation for part 19, and the relevant sectional authority citation, would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1624.

* * * * * * *

Sections 19.17–19.25 also issued under 19 U.S.C. 1312;

* * * * * * *

2. It is proposed to amend § 19.12 by revising the seventh and eighth sentences of paragraph (d)(3), by revising the first sentence of paragraph (g), adding a sentence thereafter, and revising the last sentence of paragraph (g), and by revising the first sentence, respectively, of paragraphs (h)(1) and (h)(3), to read as follows:

§ 19.12 Inventory control and recordkeeping system.

* * * * * * *

(d) *Accountability for merchandise in a warehouse.* * * *

(3) *Theft, shortage, overage or damage.* * * * The proprietor must also record all shortages and overages as required in the Customs Form 300 or annual reconciliation report under paragraphs (g) or (h) of this section, as appropriate. Duties and taxes applicable to any non-extraordinary shortage or damage and not required to be paid earlier must be reported and submitted to the port director no later than the date the certification of preparation of Customs Form 300 is due or at the time the certification of preparation of the annual reconciliation report is due, as prescribed in paragraphs (g) or (h) of this section. * * *

* * * * * * *

(g) *Warehouse proprietor submission.* Except as otherwise provided in paragraph (h) of this section or § 19.19(b) of this part, the warehouse proprietor must prepare a Warehouse Proprietor's Submission on Customs Form (CF) 300 within 45 calendar days from the end of the business year and maintain the Submission on file for 5 years from the end of the business year covered by the Submission. The proprietor must submit to the port director, within 10 business days after preparation of the CF 300, a letter signed by the proprietor certifying that the CF 300 has been prepared, is available for Customs review, and is accurate. * * * An alternative format may be used for providing the information required on the CF 300.

(h) *Annual reconciliation.* * * *

(1) *Report.* Instead of preparing Customs Form 300 as required under paragraph (g) of this section, the proprietor of a class 2, importers' private bonded warehouse, and proprietors of classes 4, 5, 6, 7, 8, and 9 warehouses if the warehouse proprietor and the importer are the same party, must prepare a reconciliation report within 90 days after the end of the fiscal year unless the port director authorizes an extension for reasonable cause. * * *

* * * * * * *

(3) *Certification.* The proprietor must submit to the port director within 10 business days after preparation of the annual reconciliation report, a letter signed by the proprietor certifying that the annual reconciliation has been prepared, is available for Customs review, and is accurate. * * *

* * * * * * *

3. It is proposed to amend § 19.17 by revising the first and second sentences of paragraph (g) to read as follows:

§ 19.17 Application to establish warehouse; bond.

* * * * * * *

(g) *Statement of inventory and bond charges.* Where two or more smelting or refining warehouses are included under one blanket smelting and refining bond, an overall statement must be prepared and maintained by the principal named in the bond by the 28th of each month, showing the inventory as of the close of the preceding month, of all metals on hand at each plant covered by the blanket bond and the total of bonded charges for all plants. If the warehouses covered by an overall statement are located in more than one port, each port director may choose to verify the accuracy of the inventory report only with respect to that portion of the report that relates to amounts held at a plant that is located within that port director's jurisdiction. * * *

4. It is proposed to amend § 19.19 by revising the first sentence of paragraph (b) to read as follows:

§ 19.19 Manufacturers' records; annual statement.

* * * * * * *

(b) Every manufacturer engaged in smelting or refining, or both, must prepare and submit to the port director at the port nearest which the plant is located an annual statement for the fiscal year for the plant involved not later than 60 days after the termination of that fiscal year. * * *

RAYMOND W. KELLY,
Commissioner of Customs.

Approved: March 12, 1999.

JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, April 7, 1999 (64 FR 16868)]

Index

Customs Bulletin and Decisions
Vol. 33, No. 16, April 21, 1999

U.S. Customs Service

Treasury Decisions

General Notices

CUSTOMS RULINGS LETTERS

Proposed Rulemaking

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